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STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW  
**NOTICE PUBLICATION REGULATIONS SUBMISSION**  
STD. 400 (REV. 2-91)

(See instructions on reverse)

*Original*  
For use by Secretary of State only

**AGENCY**

California Department of Social Services

AGENCY FILE NUMBER (if any)

RDB# 1193-46

OAL FILE  
NUMBERS

NOTICE FILE NUMBER  
Z94-0322-02

REGULATORY ACTION NUMBER

94-0729-02C

EMERGENCY NUMBER

94-0322-01E

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

SEP 12 1994

Office of Administrative Law

NOTICE

REGULATIONS

**FILED**

In the office of the Secretary of State  
of the State of California

SEP 12 1994

At 3:45 O'clock P.M.  
TONY MILLER, Acting Secretary of State  
By *Calvin L. Conick*  
Deputy Secretary of State

**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE GAIN Reform II		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94#132	PUBLICATION DATE 4-1-94	

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

**1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)** (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT 42-711
SECTIONS AFFECTED	AMEND 42-710; 42-720; 42-751; 42-760; 42-761; 42-771; 42-772; 42-773; 42-774; 42-775; 42-781; 42-782; 42-783; 42-786; 42-788; 42-790; 42-793; and 42-796
	REPEAL

**2. TYPE OF FILING**

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

**3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE** (Cal. Code Regs. title 1, §§ 44 and 45)

June 30, 1994 through July 15, 1994

**4. EFFECTIVE DATE OF REGULATORY CHANGES** (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

**5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

**6. CONTACT PERSON**

Frank Vitulli, Assistant Chief, Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

JUL 29 1994

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 42-710 to read:

42-710 INTRODUCTION TO GAIN (Continued)

42-710

.3 Definitions for Terms Used in This Chapter (Continued)

- (w) "Teen Parent" or "Teenage Parent" means a custodial parent or pregnant woman under 19 years of age.
- (x) "Unsubsidized Employment" (Continued)
- (y) "Volunteer" (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11320, 11320.2, 11320.4, 11320.6, 11320.8, 11321, 11321.2, 11321.4, 11321.6, 11321.8, 11322, 11322.2, 11322.4, 11322.6, 11322.8, 11323, 11323.1, 11323.15, 11323.2, 11323.4, 11323.6, 11323.8, 11324, 11324.2, 11324.4, 11324.6, 11324.8, 11325, 11325.2, 11325.4, 11325.6, 11326, 11326.2, 11326.4, 11326.6, 11326.8, 11327, 11327.2, 11327.4, 11327.5, 11327.6, 11327.8, 11328, 11328.1, 11328.2, 11328.4, 11328.6, 11328.8, 11329, 11329.2, 11329.4, 11329.5, 11331.5(d), and 13280, Welfare and Institutions Code.

Adopt Section 42-711 to read:

42-711 DEMONSTRATION PROJECTS

42-711

.1 Federal Demonstration Projects

- .11 Counties that make an agreement with the Department to assign GAIN registrants to an evaluation control group must comply with the procedures set forth in the agreement throughout the duration of the evaluation.
- .12 The county shall give members of an evaluation control group adequate notification that they are members of such a group according to Sections 22-001(a)(1) and 22-021.
- .13 The designation and treatment of the control group shall be accomplished pursuant to the Project's mandated parameters outlined in the Federal Waiver Terms and Conditions as approved by the Department of Health and Human Services for the California Work Pays Demonstration Project (CWPDP), March 1994.
  - .131 Designation and treatment of the control group members shall be limited to control group members residing within evaluation counties.
- .14 For the purposes of the federal California Work Pays Demonstration Project (CWPDP), the control county shall not apply the following new provisions to those applicants and recipients who are designated as members of the Project's control group.
  - .141 Section 42-796.11 - Exemption Due to Having a Child Under Age 3.
    - (a) See Section 42-711.15~~1~~ for applicable rules.
- .15 For purposes of the federal CWPDP, the control county shall apply the following provision to those applicants and recipients who are designated as members of the Project's control group:
  - .151 The Exemption Based on the Care of a Child Under Three (Code 8)

The parent or other relative of a child under age three who is personally providing care for the child is exempt from GAIN registration except as provided in Section 42-772.7.

    - (a) The exemption in Section 42-711.151 shall apply to only one parent in an AFDC-U case.
    - (b) See Sections 42-796.2 and .3 for documentation and review instructions.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Section 11310, Welfare and Institutions Code.



Amend Section 42-720 to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.3 County Plan Content (Continued)

.32 The participant and labor market needs assessment shall specify all of the following: (Continued)

.325 The amount and kind of services that will be used in the plan year, including the methodology for the provision of services. (Continued)

(d) Notwithstanding Section 42-720.325(c), when the Cal-Learn Program, as described in Sections 42-762 through 42-769, is operative, the county plan shall contain the information required by Section 42-767.

(e) A county plan update containing the requirements of Section 42-720.325(c) shall be submitted as required by CDSS. (Continued)

.5 CDSS County Plan Approval (Continued)

.57 CDSS approval of a county plan shall be dependent upon but not limited to the following: (Continued)

.573 Whether the plan contains an identification of, and linkages or planned linkages to, education and supportive services and a description of the case management services available to custodial parents under the age of 18, as specified in Section 42-720.325(c) or Section 42-766 when the Cal-Learn Program is operative. (Continued)

.6 GAIN Target Population Priority (Continued)

.67 The cost reduction provisions specified in Section 42-720.63, including the priority provisions specified in Sections 42-720.632, .633 and .634, shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11320.6(b), 11320.8(c), 11321, 11321.2, 11321.2(a), 11322.2(b), 11322.4, 11323.15, 11330.5(d), 11330.8(c), 11330.9, 11333.5(b) and 13280, Welfare and Institutions Code; 45 CFR 250.1; 45 CFR 250.12(c); and 45 CFR 250.31(a).

Amend Section 42-751 to read:

42-751 UNDERPAYMENTS AND OVERPAYMENTS OF SUPPORTIVE SERVICES (Continued) 42-751

.2 General Criteria

.21 The CWD shall take all reasonable steps necessary to promptly correct and collect any overpayment that is known to the county. (Continued)

.214 The CWD shall continue to attempt recovery efforts in all cases of former Cal-Learn participant overpayments. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11323.4(b) and (d)(1), and 11328, Welfare and Institutions Code; 45 CFR 205.10, 255.2(h)(1) and 255.4(j); and 54 FR 42234, October 13, 1989; JOBS-FSA-AT-91-5.

Amend Section 42-760 to read:

42-760 GAIN REGISTRATION (Continued)

42-760

- .9 The provisions of Section 42-760 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11320.4(e), 11325(d) and 11325.2(d), Welfare and Institutions Code; 45 CFR 250.90, 45 CFR 250.94(a)(2), 45 CFR 250.95(b) and 45 CFR 250.97(f)(7).

Amend Section 42-761 to read:

42-761 GAIN REGISTRANT APPRAISAL (Continued)

42-761

- .6 The provisions of Section 42-761 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11323.15, 11323.2(a), 11323.4(d)(1), 11323.6(d)(1), 11325, 11325.2(c)(7), 11330.3 and 11331.5(b), Welfare and Institutions Code; 45 CFR 250.1; 45 CFR 250.41(a) and (b); 45 CFR 250.48(a) and 45 CFR 255.2(a); and 54 FR 42184, October 13, 1989.

Amend Section 42-771 to read:

42-771 GAIN PARTICIPANT CONTRACTS (Continued)

42-771

- .6 The provisions of Section 42-771 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11325.2(c)(1)(B) and 11325.2(d), Welfare and Institutions Code and 45 CFR 255.2(h).



Amend Section 42-772 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS (Continued)

42-772

- .6 Except as provided in Sections 42-772.61, 42-772.62 and 42-772.71, for any parent or other relative who is personally providing care to a child under age 6, participation shall not be required for more than 20 hours per week.
- .61 The participation limit specified in Section 42-772.6 is applicable to only one parent in an AFDC-U case.
- .62 The participation limit specified in Section 42-772.6 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative or to those Cal-Learn participants who have graduated from high school or an equivalent program.
- .7 For any custodial parent under age 20 who does not possess a high school diploma or its equivalent and who is not exempt, or whose sole reason for exemption would have been having a child under age three, or who volunteers, the participant contract shall provide that the individual participate in an educational activity leading to a high school diploma or equivalent, except as provided for self-initiated participants in Section 42-772.722.
- .71 These participants shall participate full-time as defined by the educational provider.
- .711 The provisions of Section 42-772.7 shall not apply to teen parents who ~~are subject to~~ meet the criteria of Sections 42-763.111 through .114 when the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.  
(Continued)
- .76 Case management services and counseling shall be provided to teenage parents as needed to assist their participation in GAIN. Teen Parents who began participation in GAIN before the age of 18 or in the Cal-Learn Program before the age of 19 may continue to receive these case management and counseling services/ as needed/ after the age of 18 or 19, respectively, until they obtain a high school diploma or equivalent, so long as they continue to participate in the GAIN Program. Case management and counseling services may be provided until participants reach age 20, to the extent resources are available and the services are needed to earn a high school diploma or its equivalent. (Continued)
- .764 Sections 42-772.761, .762, and .763 shall not be operative when the Cal-Learn Program as described in Sections 42-762 through 42-769 is operative.
- .77 Counties shall be permitted to contract for the provision of case management services specified in Section 42-772.76. Agencies with which the county may contract shall be limited to public or nonprofit agencies that administer services under the Adolescent Family Life Program (as authorized by Article 3.2 [commencing with Section 309.100]

of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), school districts, or other public or nonprofit agencies approved by the department. (Continued)

.773 Sections 42-772.77, .771, and .772 shall not be operative when the Cal-Learn Program as described in Sections 42-762 through 42-769 is operative. (Continued)

.79 Upon completion of the educational activity, the following participation requirements apply:

.791 When the Cal-Learn Program as described in Sections 42-762 through 42-769 is operative, the provisions of Sections 42-772.792 and .793 shall not apply to individuals who have earned a high school diploma or its equivalent while participating in the Cal-Learn Program.

.7912 (Continued)

.7923 (Continued)

.7934 (Continued)

.7945 (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11310(b)(6)(B), (d) and (e), 11323.15, 11325.2(c)(5), (6) and (7), 11326.2(b), (c)(5)(D) and (E), 11330, 11330.1, 11330.2, 11330.4, 11330.5, 11330.6, 11330.8, 11330.10, 11330.11, ~~and~~ 11331.5, 11332.7(b) and 11334, Welfare and Institutions Code; and 45 CFR 250.1; 45 CFR 250.32(a)(1) and (3)(ii); 45 CFR 250.48 and .48(b); and 45 CFR 255.2(a) and (c).

Amend Section 42-773 to read:

42-773 DEVELOPMENT OF AN EMPLOYMENT PLAN (Continued)

42-773

- .8 The provisions of Section 42-773 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11323.15 and 11325.4(c), Welfare and Institutions Code.

Amend Section 42-774 to read:

42-774 PARTICIPANT CONTRACT AMENDMENTS

42-774

Whenever a participant is assigned to a different program component, the contract shall be amended to reflect the assignment and supportive services (Section 42-750) necessary for participation. The CWD and the participant shall sign the amended contract and be bound by its terms. (Continued)

.2 Upon completion of the assigned activities agreed to under Section 42-774.1, the following provisions shall apply:

.21 Participants who have completed OJT, adult basic education (ABE) (including high school equivalency), vocational training/education and/or vocational ESL and who have not obtained employment shall not receive any additional training or education services, including PREP, as defined in Sections 42-730.3 and 42-730.5, until all other individuals needing such services are being served, except as specified in Section 42-774.211.

.211 Additional training and/or education services shall be provided to participants described in Section 42-774.21 in extenuating circumstances which include, but are not limited to, those specified in Sections 42-774.211(a) through .211(e). The CWD may request verification of the extenuating circumstance.

- (a) The occupation for which training or education services were received is no longer in demand in the local labor market.
- (b) The participant has experienced a change in his/her physical or mental condition or in his/her family circumstances which precludes employment in the occupation for which training or education services were received.
- (c) The participant has moved to a county in which the occupation for which training or education services were received is not in demand in the local labor market.
- (d) The participant is unable to obtain needed licenses or approvals.
- (e) At the discretion of the CWD, and as documented in the case file, any substantial and compelling reason other than those specified in this section.

.212 Participants described in Section 42-774.21 who do not obtain employment shall be referred to job services, as described in Section 42-730.2, for a period of 90 days. Job search activities during the 90-day period shall not be subject to the 40-day limit specified in Section 42-730.272.

.213 Participants described in Section 42-774.212 who remain unemployed after the 90-day job services period and who do not meet the provisions of Section 42-774.211 shall be eligible only for additional job services, subject to the limits specified in Section 42-730.27.

(a) Participation in job services shall be required annually until the participant is again eligible for training or education services.

HANDBOOK BEGINS HERE

- (1) Consistent with her employment plan, the participant is assigned to a vocational training assignment. Upon completion of the assignment, the participant does not obtain employment; there are no extenuating circumstances.

The participant is then assigned to 90-day job services, which is the only activity available to her. If she has not obtained employment after the 90-day job services assignment, she is eligible only for additional job services, subject to the 40-day time limit. She would not be eligible for any other GAIN activity until all other eligible participants are being served.

- (2) Consistent with his employment plan, the participant is assigned to ABE, followed by OJT. Upon completion of the OJT assignment, the participant is unable to obtain employment in the field for which he was trained due to a change in his physical condition.

Because there are extenuating circumstances, the participant is eligible to receive additional training and/or education services needed to obtain employment.

HANDBOOK ENDS HERE

.22 Participants who have completed short-term PREP or an activity funded by grant diversion and who have not obtained employment may be referred to additional training or education services necessary to meet the employment goal.

.221 Participants described in Section 42-774.22 who subsequently complete OJT, ABE, vocational training/education or vocational ESL shall be subject to the provisions of Section 42-774.21.

.222 Participants described in Section 42-774.22 who are not referred to additional training or education services shall be referred to job services, as described in Section 42-730.2, for a period of 90 days. Job search activities during the 90-day period shall not be subject to the 40-day limit specified in Section 42-730.272.



- (a) Participants described in Section 42-774.222 who remain unemployed at the end of the 90-day job services period shall be referred to an advanced long-term PREP assignment, as described in Section 42-730.32, for a period of 12 months.

- (1) The advanced long-term PREP assignment may be shortened in accordance with Section 42-774.4.

HANDBOOK BEGINS HERE

- (A) Consistent with her employment plan, the participant is assigned to a short-term advanced PREP activity. She does not obtain employment upon completion of the PREP assignment and is assigned to 90-day job services. She remains unemployed and is referred to long-term advanced PREP.

Because she has not yet received OJT, ABE, vocational education/training or vocational ESL, she remains eligible to receive any GAIN training or education activities needed to obtain employment.

- (B) Consistent with his employment plan, the participant is assigned to a short-term basic PREP activity, followed by OJT. Upon completion of the OJT, the participant does not obtain employment. The only GAIN activity the participant is eligible to receive is job services until all other eligible participants are being served. (Continued)

HANDBOOK ENDS HERE

- .7 The provisions of Section 42-774 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11322.4(f) and (g), 11322.6(f)(2), 11323.15, 11324.8(a), 11325.4(a) and (c), and 11325.8, Welfare and Institutions Code and 45 CFR 250.60(d).

Amend Section 42-775 to read:

42-775 GAIN PARTICIPATION REQUIREMENTS FOR AFDC-U PARENTS (Continued)

42-775

.7 The provisions of Section 42-775 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

Authority Cited: Sections 10553, 10554, 10604, and 11325.2(c)(9), Welfare and Institutions Code.

Reference: Sections 11320.8(a), 11322.4(f), 11322.8(f) and (g), 11323.15, 11325, 11325.2(c)(7) and (c)(9), 11325.2(d), 11325.8(b), and 11327.4(a), Welfare and Institutions Code; 45 CFR 250.33; 45 CFR 250.41; 45 CFR 250.74(c)(1); 42 U.S.C. 603(l)(4)(A) and (B)(i); JOBS-ACF-AT-93-7; and JOBS-ACF-AT-94-3.

Amend Section 42-781 to read:

42-781 CAUSE DETERMINATIONS AND CONCILIATION

42-781

- .1 Before sanctions (Section 42-786) are applied, the CWD shall determine if there is good cause and attempt to resolve the problems when an individual who is required to enter into a participant contract or who volunteers to participate in the program fails or refuses to comply with program requirements.. (Continued)
- .12 The provisions of Section 42-781 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Section 42-762 through 42-769 when that Program is operative. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11323.15, 11327.4, 11327.5(c)(1), 11330.10(c) and 11333.7(b)(2)(A), Welfare and Institutions Code; 45 CFR 250.34(a); and FSA-JOBS-90-3 (Federal Action Transmittal).

Amend Section 42-782.4 to read:

42-782 GAIN GOOD CAUSE CRITERIA (Continued)

42-782

- .4 ~~The~~ Only those good cause criteria specified in Sections 42-782.1~~(d)~~~~/ (g)~~~~/ (l)~~~~/ (n)~~ ~~and (p)~~ (b), (c), (d), (e), (f), (h), (i), (j), (k) and (o) shall ~~not~~ apply as provided in Welfare and Institutions Code Section 11333.7(b)(2)(B) to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11323.2(a), 11325, 11328(a)(12) and (14) and (i), and 11328.1 and 11333.7(b)(2)(B), Welfare and Institutions Code; and 45 CFR 250.35(d) and 255.2(a).

Amend Section 42-783 to read:

42-783 CRITERIA FOR DETERMINING APPROPRIATENESS OF GAIN  
WORK AND TRAINING

42-783

.1 For determining good cause, an assignment, job referral, job offer, or job is not considered appropriate work or training, as specified in Section 42-782, if it meets any of the following conditions: (Continued)

(m) The offer of employment is at a wage level that results in a net loss of income, as specified in Section 42-784.

(1) The net loss of income provisions specified in Sections 42-783.1(m) and 42-784 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11328(a)(14) and 11333.7(b)(2)(B), Welfare and Institutions Code.



Amend Section 42-786 to read:

42-786 GAIN SANCTIONS (Continued)

42-786

.2 Financial sanctions shall be applied as follows: (Continued)

.26 (Continued)

.261 If this is the third or subsequent sanction, the individual shall be notified as specified in Section 42-786.246 that the sanction can be ended only after completion of the six-month sanction period. (Continued)

.8 The provisions of Section 42-786 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative. (For applicable sanctions see Section 11333.7(b)(1) of the Welfare and Institutions Code.)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11323.15, 11327.4(j), 11327.5(b), (c) and (d), and 11333.7(b)(1) and (2)(A), Welfare and Institutions Code; 45 CFR 250.30(b)(7); 45 CFR 250.34(c)(2) and (3); 45 CFR 255.2(h)(2); 54 FR 42173, October 13, 1989; and JOBS-ACF-AT-92-5.

Amend Section 42-788 to read:

42-788 EXEMPTIONS (Continued)

42-788

- .3 Only those exemptions specified in Sections 42-791, 42-793 and 42-799 shall apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11310(b) and (c), 11320.4(a) and 11331.5(b) ~~and (c)~~, Welfare and Institutions Code; 45 CFR 250.30(a) and (c)(2) and 45 CFR 250.31.

Amend Section 42-790 to read:

42-790 EXEMPTION BASED ON SCHOOL ATTENDANCE (CODE 02)

42-790

.1 The Exemption

An individual 16, 17, or 18 years of age is exempt when he/she is attending full-time, a school in grade twelve or below, or vocational or technical school. An individual who is 16 or 17 years old or a custodial parent under 20 years old described in Section 42-772.7 and whose required GAIN activity is to attend school shall not qualify for this exemption. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Section 11310(b)(2), Welfare and Institutions Code; and 45 CFR 250.30(b)(1)(ii).

Amend Section 42-793 to read:

42-793 EXEMPTION BASED ON INCAPACITY (CODE 05)

42-793

.1 The Exemption

An individual is exempt from GAIN registration based on incapacity when it is verified that: (a) the individual has a physical or mental impairment which prevents the individual from engaging in employment or training; or (b) the individual is under age 20, does not possess a high school diploma or equivalent, and her physician prescribes a specified period of postpartum recovery.

- .11 The exemption for postpartum recovery provided in Section 42-793.1 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11310(d)(3) and 11332(c), Welfare and Institutions Code; and 45 CFR 250.30(b)(3).

Amend Section 42-796 to read:

42-796 EXEMPTION BASED ON THE CARE OF A CHILD UNDER THREE  
(CODE 08)

42-796

.1 The Exemption

The parent or other relative of a child under age three who is personally providing care for the child is exempt from GAIN registration except as provided in Sections 42-772.7, 42-788, 42-796.11 and 42-796.12.

.11 An individual shall be eligible for the exemption in Section 42-796.1 only one time during a period of continuous eligibility for AFDC.

.111 A "period of continuous eligibility for AFDC" means a period of time in which there has not been a break in aid.

.112 An individual who has previously received this exemption and who has responsibility for personally providing care to a child under age three shall be exempt for four months upon the birth or adoption of another child. (CODE 12)

.12 The CWPDP control county shall not apply the limits specified in Section 42-796.11 to control group members for the duration of the CWPDP evaluation.

.13 Upon graduation from high school or an equivalent program, for purposes of GAIN participation, the exemption in Section 42-796.1 shall not apply to teen parents who are subject to the Cal-Learn Program as described in Sections 42-762 through 42-769 when that Program is operative.

.14 The exemption in Section 42-796.1 shall apply to only one parent in an AFDC-U case.

.141 (Continued)

.142 (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11310(b)(6), 11331.5(b) and 11334, Welfare and Institutions Code.



## NOTICE PUBLICATION REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

For use by Secretary of State only

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

OAL FILE  
NUMBERSNOTICE FILE NUMBER  
Z94-0322-02

REGULATORY ACTION NUMBER

94-0729-DIC

EMERGENCY NUMBER

94-0322-02E

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

SEP 12 1994

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

SEP 12 1994

At 3:45 O'clock P.M.  
TONY MILLER, Acting Secretary of StateBy Calvin C. Conick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Cal-Learn Program		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94, #13-2	PUBLICATION DATE 4-1-94	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT Sections 42-762, 42-763, 42-764, 42-765, 42-766, 42-767, 42-768 and 42-769
SECTIONS AFFECTED	AMEND Section 82-836
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

June 24, 1994 through July 9, 1994

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal☐ Other (Specify)

6. CONTACT PERSON

Frank R. Vitulli, Chief, Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

DATE JUL 29 1994

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, DIRECTOR

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt new Section 42-762 to read:

42-762 INTRODUCTION TO THE CAL-LEARN PROGRAM

42-762

HANDBOOK BEGINS HERE

.1 Background

Social science research has established a strong connection between teenage parenting and long-term welfare dependency. Health research also indicates a strong relationship between early childbearing and increased maternal and infant morbidity and mortality. Senate Bill (SB) 35, Chapter 69, Statutes of 1993, and ~~Senate Bill~~ (SB) 1078, Chapter 1252, Statutes of 1993, established the Cal-Learn Program to address the unique educational, vocational, training, health, and other social service needs of Aid to Families with Dependent Children (AFDC) dependent teenage parents to help them achieve self-sufficiency. As part of the California Work Pays Demonstration Project (CWPDP), the Cal-Learn Program serves AFDC recipients under 19 years old who are custodial parents or pregnant. To encourage these teen parents to stay in or return to high school or an equivalent program and earn a diploma or its equivalent, the Cal-Learn Program provides fiscal incentives and disincentives as well as needed supportive services and intensive case management.

.2 Outline of the Major Program Requirements

The major program requirements of the Cal-Learn Program are as follows:

- .21 Each teen parent will be required to attend full-time school programs that will lead to a high school diploma or equivalent until they earn a high school diploma or its equivalent or turn 19 years old.
- .22 An assistance unit (AU) with a teen parent or parents will receive up to four \$100 bonuses ~~each calendar year~~ in a 12-month period for each teen parent that makes satisfactory progress in their school program.
- .23 Each teen parent receiving a high school diploma or its equivalent within the month he/she turns age 19 will receive a \$500 bonus.
- .24 An AU with a teen parent or parents will receive a \$100 sanction up to four times ~~each calendar year~~ in a 12-month period for each teen parent who fails to make adequate progress in their school program without demonstrating good cause.
- .25 Child care, transportation and ancillary expense payments will be provided to enable a teen parent to continue in or enroll in school.
- .26 Intensive case management services ~~provided by the~~ will be provided in accordance with Adolescent Family Life Program (AFLP) Standards will be provided which will include linking each teen parent to needed health and social services available in the teen parent's community.

- .261 The services provided under the AFLP case management model are a process which assists the teen parent to receive needed services within a multi- and transdisciplinary network in an efficient, supportive and effective manner. Case management is teen parent-centered, culturally appropriate and goal-oriented. It is interactive, involving the teen parent and the teen parent's family, significant others and support persons as equal partners with the case manager in identifying needs and defining ways to meet those needs. Building interpersonal relationships among teen parents, case managers and others is both a method and goal of case management.

HANDBOOK ENDS HERE

.3 Definition for Terms Used in The Cal-Learn Program

- a. (1) "Adequate progress" means making a "D" (no less than a 1.0 and less than a 2.0) grade point average on a report card or meeting the school's regular assessment of periodic progress when the school uses an alternative grading method.
- (2) "Ancillary expenses" means expenses a teen parent needs to attend and/or graduate from high school or its equivalent. This includes, but is not limited to, school books, GED testing costs, laboratory fees, etc.
- (3) "AFLP" means the Adolescent Family Life Program.
- (4) "CWPDP" means the California Work Pays Demonstration Project.
- (5) "AU" means assistance unit.
- b. (1) "Bonus" means a payment of money that is made as part of the AU's cash aid for a teen parent making satisfactory progress in the teen parent's educational program.
- c. (1) "CDHS" means the California Department of Health Services.
- (2) "CDSS" means the California Department of Social Services.
- (3) "Control group" means an evaluation group of teen parents who shall not participate in Cal-Learn.
- (4) "CWD" means the county welfare department.
- d. (1) "Deferred" means a teen parent who is not required to participate in the Cal-Learn Program in accordance with the deferral criteria. A deferred teen parent receives case management services, if available, but is not subject to sanctions, eligible for bonuses or supportive services.
- e. (1) "Exempt" means an individual who is not required to participate in accordance with the Cal-Learn exemption criteria. An exempt individual receives no services and is not subject to sanctions or eligible for bonuses.

f. Reserved

g. (1) "GAIN" means the Greater Avenues for Independence.

(2) "GED" means a General Education Development examination.

h. (1) "Head of the AU" is the caretaker relative in the AU.

i. (1) "Independent living" means a person no longer receiving public aid.

j. through q. Reserved

r. (1) "Report card" means a periodic report on a teen parent's academic achievement routinely issued by a school.

s. (1) "Sanction" means the reduction in the cash aid payment for the AU based on the Cal-Learn sanction criteria.

(2) "Satisfactory progress" means making at least a "C" (2.0) grade point average on a report card or meeting the school's regular assessment of periodic progress when the school uses an alternative grading method.

(3) "Special need" under this section means an event or condition which clearly and directly prevents a teen parent from making adequate progress in school or earning a diploma.

(4) "Supportive services" means transportation, child care and ancillary expenses needed by a teen parent to attend their educational program.

t. (1) "Teen parent" means ~~an person who is not exempt/ meets the following eligibility criteria/ and has entered the Cal-Learn Program/ An individual who has entered the program under Section 42-764.1/~~ individual participating in the Cal-Learn Program. To be a participant, an individual must:

(A) Is Be an AFDC recipient ~~who is~~ under the age of 19; and

(B) ~~Has Not have~~ Not have obtained a high school diploma or its equivalent; and

(C) ~~Resides with his/ or her child in the same AU; or~~

(D) Is Be pregnant/; and

(E) Have been notified of the Cal-Learn Program under Section 42-764.1; and

(F) Not be exempt from participation.

u. through z. Reserved

.4 Federal Demonstration Project

- .41 The United States Department of Health and Human Services (USDHHS) chose four counties to participate in the CWPDP. These four CWDs shall comply with the Cal-Learn Program research procedures throughout the duration of the demonstration project.
- .42 The CWD shall provide adequate notification to GAIN registrants who have been assigned to the Cal-Learn evaluation control group.
- .43 The designation and treatment of the control group shall be accomplished pursuant to the project's mandated parameters outlined in the Federal Terms and Conditions as approved by the USDHHS.
  - .431 Designation and treatment of the control groups members shall be limited to control group members residing within the four research counties.
  - .432 A break-in-aid shall not affect a teen parent's status in the research project as long as the member continues to reside in one of the research counties.

.5 Data Collection

The CWD shall ensure data is collected and submitted in accordance with CDSS statistical reporting requirements. The data shall include, but not be limited to, the following:

- (a) Number of individuals subject to the Cal-Learn Program.
- (b) Number of teen parents entering the Cal-Learn Program.
- (c) Number of teen parents transferring from other counties.
- (d) Number of teen parents receiving a high school diploma or equivalent.
- (e) Number of teen parents who are deferred or exempted from the Cal-Learn Program and the reason for deferrals or exemptions.
- (f) Number of teen parents' children receiving child care services by type of provider.
- (g) Number of teen parents receiving transportation payments.
- (h) Number of teen parents receiving ancillary expense payments.
- (i) Number of teen parents receiving a bonus, separated by \$100 and \$500 bonuses.
- (j) Number of teen parents receiving a sanction.

.6 CWD Responsibilities

THE CWD SHALL PERFORM THE FOLLOWING! THE CWD SHALL NOT CONTRACT! DELEGATE OR OTHERWISE TRANSFER THE RESPONSIBILITY TO PERFORM ALL OR PART OF THE FOLLOWING DUTIES! IT IS THE CWD'S RESPONSIBILITY TO PERFORM ALL OF THE FOLLOWING DUTIES, NONE OF WHICH SHALL BE CONTRACTED, DELEGATED, OR OTHERWISE TRANSFERRED IN WHOLE OR PART:

- .61 Good cause determination under Section 42-768;
- .62 Exemption determination under Section 42-763.2;
- .63 Deferral determination under Section 42-763.3;
- .64 Sanction determination under Section 42-769;
- .65 Bonus determination under Section 42-769;
- .66 Issuance of bonuses under Section 42-769; or
- .67 Reduction of a grant under Section 42-769 due to a sanction determination.

.7 Federal AFDC Eligibility

INDIVIDUALS WHO HAVE ENTERED THE CAL-LEARN PROGRAM WHO ARE PREGNANT A pregnant teen with no other children (AU of one) who has entered the Cal-Learn Program under Section 42-764.1 shall be federally eligible for AFDC and the pregnancy special need payment under Section 44-211.631 during their her first and second trimesters of pregnancy.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10852, 10853, 11331.5(c), 11332, and 11333.7(a), (b) and (c), Welfare and Institutions Code; SB 35, Chapter 69, Statutes of 1993, as amended by SB 1078, Chapter 1252, Statutes of 1993; 45 CFR 250.10(c), 45 CFR 250.40(a), 45 CFR 282; 42 USC Section 1315; and Federal Waiver Terms and Conditions for the California Work Pays Demonstration Project, March 1994.



Adopt new Section 42-763 to read:

42-763 CAL-LEARN PROGRAM ELIGIBILITY AND PROGRAM PARTICIPATION  
REQUIREMENTS

42-763

.1 Eligibility

- .11 Individuals who meet the following conditions shall be registered for the GAIN Program and shall be required to participate in the Cal-Learn Program unless exempt under Section 42-763.2. An individual eligible for Cal-Learn is a person who:
  - .111 Is an AFDC recipient ~~who is~~ under the age of 19; and
  - .112 Has not obtained a high school diploma or its equivalent; and
  - .113 Resides with his or her child in the same AU; or
  - .114 Is pregnant and the pregnancy is verified under Section 80-301(m)(2).
- .12 An individual assigned to a control group under Section 42-762.4 shall not be eligible for the Cal-Learn Program for the duration of the research period unless he or she moves to a county that is not participating in the research project under Section 42-762.4.
- .13 An individual assigned to the Basic Education Study in Riverside County shall not be eligible for the Cal-Learn Program for the duration of the individual's random assignment to this study.

.2 Exemption

Individuals meeting the following requirements shall be exempt from GAIN registration and the Cal-Learn Program. An exemption shall be granted by the CWD if the individual:

- .21 Has a serious illness, injury, or incapacity that prevents the teen parent from meeting the Cal-Learn Program requirements of enrolling in school and attending full-time under Section 42-763.71 for a period of more than three months.
  - .211 The exemption based on illness, injury or incapacity shall be supported by a written statement from a physician or a licensed or certified psychologist and includes the following:
    - (a) A description of the individual's condition;
    - (b) An explanation of why the individual's condition prevents him or her from meeting program requirements;
    - (c) The expected duration of the condition;
    - (d) The date of the next scheduled examination or appointment; and



(e) The doctor's name, address and phone number.

.212 When a written statement cannot be obtained timely for reasons beyond the control of the individual, an oral statement from the physician or the licensed or certified psychologist with the information required in this section shall be accepted pending written verification up to a maximum of 60 days.

(a) The oral statement shall be documented and shall include:

- (1) The date the oral statement was obtained;
- (2) The name of the person who supplied the oral statement;
- (3) The person who obtained the oral statement; and
- (4) A description of the statement.

.22 Is expelled from school and enrollment in any alternative school cannot be arranged.

.221 The individual or the head of the AU shall provide written verification from the school district in which the individual is a resident that no school in the individual's district will permit the individual to enroll.

.23 Needs Cal-Learn Program paid child care and/or transportation in order to meet Cal-Learn Program requirements and the service is not available for a period of three or more months.

.24 Cannot receive payment for child care or transportation expenses due to lack of program funding.

.25 Is eligible for AFDC-FC and payment is being made on behalf of the individual.

### .3 Deferral

Teen parents who are unable to meet Cal-Learn Program requirements due to the following deferral criteria shall be deferred from the Cal-Learn participation until the CWD determines that the situation requiring deferral no longer exists. Deferral shall be granted by the CWD if the teen parent:

.31 Needs supportive services under Section 42-765 which are temporarily not available.

.32 Cannot be provided case management services.

.33 Has a special need that substantially deprives the teen parent's ability to meet program requirements or be successful in earning a high school diploma or its equivalent, and the special need cannot be addressed.

.331 To qualify for a special need deferral, the teen parent must be severely restricted by factors beyond the teen parent's control to attend school and no home study or other special arrangements can be made with the school.

- (a) Beyond the control of the teen parent shall include, but not be limited to, acts of nature such as fire, earthquake, flood, death of a child or parent, child is hospitalized, child or teen parent is seriously ill or injured.

HANDBOOK BEGINS HERE

- (b) EXAMPLE:

Sara suffered an injury in a car accident for which her physician stated she would be unable to attend school for six weeks. However, the physician stated that Sara would be able to continue her school work at home in two weeks. Sara's case manager contacted Sara's school and was able to arrange a home study program which gave Sara the ability to make adequate progress for the report card period. Sara does not qualify for a deferral.

HANDBOOK ENDS HERE

.332 Documentation under Sections 42-763.211 or .212 shall be required for a special needs deferral which is an illness, injury or incapacity.

- (a) Documentation shall be accepted from a physician, licensed or certified psychologist, licensed Marriage Family and Child Counselor or a Licensed Clinical Social Worker.

.34 Has been prescribed a period of time for postpartum recovery after the birth of a child by a physician.

.341 Documentation under Section 42-763.332 shall be required for the postpartum recovery deferral.

HANDBOOK BEGINS HERE

.4 Individuals exempt or deferred from the Cal-Learn Program are not exempt or deferred from attending school. The California Education Code (CEC), Section 48200 provides that each person between the ages of 6 and 18 years, not exempted under Chapters 2 or 3 of the CEC, is subject to compulsory full-time education.

HANDBOOK ENDS HERE

.5 Documentation, Review and Notification

CWDs or case managers shall:

.51 Document the estimated duration of the exemption or deferral status.

- .511 The CWD or case manager shall verify submitted documentation if authenticity is in doubt or when the information is inconsistent with information that is known.
- .52 Review exemption status at the end of the projected length of time of the exemption, or upon the request of the individual or head of the AU, but no less often than every six months.
- .53 Review deferral status at the end of the projected length of the deferral, or upon the request of the teen parent or head of the AU, but no less often than every three months.
- .54 Notify a teen parent and the head of the AU ~~when a teen parent is~~ of a teen parent's exemption or deferral from the Cal-Learn Program and of the right to have the exemption or deferral reviewed.
- .6 Service Provisions
- .61 Exempt individuals shall not be eligible to receive Cal-Learn supportive services under Section 42-765, case management services under Section 42-766, or bonuses or sanctions under Section 42-769.
- .62 Deferred teen parents shall not be eligible to receive Cal-Learn supportive services under Section 42-765 and sanctions and bonuses under Section 42-769. Deferred teen parents shall receive case management under Section 42-766 except for teen parents who are deferred due to case management not being available.
- .7 Participation Requirements
- Teen parents shall:
- .71 Enroll and attend full-time (as defined by the school) in a school program which shall lead to a high school diploma or its equivalent.
- .711 For the purposes of the Cal-Learn Program, high school equivalency programs shall include, but not be limited to, preparation classes for the GED examination and the California high school certificate of proficiency examination.
- .712 Vocational training programs which are not part of a high school or its equivalent curriculum shall not meet the Cal-Learn participation requirements.
- .713 Except as provided in Section 42-763.714, teen parents who are enrolled in a program which has no "full-time" definition shall participate in a minimum of 10 hours of school activity per week during each week that participation is required.
- .714 When a teen parent is enrolled in a school program which cannot provide a minimum of 10 hours per week of school activity, the AU shall provide written verification from the school in which the teen parent is enrolled confirming this limitation.

- .72 Participate in the Cal-Learn Program until the end of the month in which the teen parent turns age 19 or until either a high school diploma or its equivalent is earned.
- .73 Assist in the development of the case plan including a report card submittal schedule as part of the case plan under Section 42-766.33.
- .74 Submit report cards to the case manager.
- .741 A teen parent shall be responsible for submitting the report card to the teen parent's case manager within 10 working days from the date the report card is issued.

.8 Break In Program Participation

When a teen parent has a break-in-aid or is exempted from the program for 90 days or more, the following conditions shall be met.

- .81 The teen parent shall be rescheduled for orientation and shall be provided program requirements under Section 42-764.2; and
- .82 The teen parent shall participate in the Cal-Learn Program for 90 calendar days under Section 42-766.334 before being eligible for bonuses or subject to sanctions under Section 42-769.

HANDBOOK BEGINS HERE

- .83 Example: Bill is discontinued effective February 28. He remains in school and is reinstated effective June 2. His report card for the school term ending June 30 indicates satisfactory progress. Bill is not eligible for a bonus because his break-in-aid was for more than 90 days and he has not participated for 90 days after his AFDC was reinstated.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11450, 11331.5, 11331.7, 11332, 11332.5(a)(3), 11333.7(a), (b)(1) and (d), 11334.2, and 11450, Welfare and Institutions Code; 45 CFR 250.40(a) and 45 CFR 282; and 42 USC Section 1315.

Adopt new Section 42-764 to read:

42-764 NOTIFICATION AND ORIENTATION

42-764

.1 Notification

When a CWD determines that an individual is required to participate in the Cal-Learn Program, a Cal-Learn Program notice shall be sent to both the individual and the head of the AU with an appointment date for the Cal-Learn eligible individual to attend orientation under Section 42-764.2.

.11 The notice shall include:

.111 A general description of the Cal-Learn Program;

.112 A description of the supportive services and case management services provided to teen parents;

.113 A statement that the notice is not notification of program requirements and that Cal-Learn Program requirements shall be provided during the teen parent's orientation; and

.114 The date the individual has been scheduled for orientation.

.2 Orientation

A Cal-Learn orientation shall be scheduled and provided to teen parents.

.21 In addition to written and oral descriptions of the program under Sections 42-764.111 and .112, orientation shall also provide the teen parent written and oral descriptions of the following:

.211 Cal-Learn Program participation requirements under Section 42-763.7;

.212 A description of the Cal-Learn Program exemption and deferral criteria and an explanation that a Cal-Learn Program exemption or deferral does not provide an exemption from attending school under the California Education Code.

.213 The Cal-Learn bonuses and sanctions, and the consequences of failing to make adequate progress; and

.214 The right to show good cause for failing to demonstrate adequate progress.

.215 The consequences of a break-in-aid.

.22 No later than 30 days after the teen parent attends orientation, the head of the AU shall be sent a notice containing a Cal-Learn Program description and the program requirements under Section 42-764.21.

- .23 When a teen parent fails to attend the scheduled orientation, the teen parent and the head of the AU shall be sent a notice containing a Cal-Learn Program description and the program requirements under Section 42-764.21 no later than 5 working days after the scheduled orientation.

HANDBOOK BEGINS HERE

- .231 Teen parents who do not attend orientation, or otherwise do not cooperate, will continue to receive their AFDC grants for which they are eligible. Under Sections 42-763.741 and 42-766.33, these teen parents will be subject to sanctions if they do not submit their report cards.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11332.5(a)(5) and 11334.2, Welfare and Institutions Code, 45 CFR 250.40(a), and Section 48200, California Education Code.

Adopt new Section 42-765 to read:

42-765 SUPPORTIVE SERVICES

42-765

.1 Supportive Services Provisions

Teen parents shall receive child care, transportation and ancillary expenses under Section 42-750. The procedures under Section 42-750 shall be used for the payment of supportive services and the collection of an unused portion of an advance supportive service payment.

.11 Supportive services shall be limited to those services teen parents need to attend their school programs regularly.

.2 Overpayments and Underpayments

The procedures under Section 42-751 shall be used for the issuance of underpayments and the collection of overpayments.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.4 and 11331.7(a), Welfare and Institutions Code and 45 CFR 255.4(j).

Adopt new Section 42-766 to read:

42-766 CAL-LEARN CASE MANAGEMENT SERVICES

42-766

.1 Case Management

.11 Case management services shall be provided to each teen parent in the Cal-Learn Program.

.111 Case management services shall provide assistance to teen parents to obtain:

- (a) The educational services necessary to earn a high school diploma or its equivalent.
- (b) Health and social services, including, but not limited to those designed to:
  - (1) Reduce the incidence of maternal and child morbidity and mortality, including the incidence of low birthweight infants;
  - (2) Enhance the teen parent's parenting skills;
  - (3) Facilitate an effective ongoing relationship between the teen parent, the noncustodial parent and the child where it is in the best interest of the child and the teen parent; and
  - (4) Assess the suitability of the teen parent's living situation including, but not limited to, the physical and emotional health and safety of the teen parent and child.

.12 Standards for Case Managers

.121 Case managers shall possess an expertise in the education, training and other social and health service needs of teen parents, as well as the local programs that provide these services.

- (a) Training shall be provided to case managers to develop and update the required expertise.

.122 Case managers shall have sufficient time consistent with the AFLP Standards incorporated under Section 42-766.133(a) to provide the needed case management services to teen parents.

.13 Provision of Case Management Services

.131 Adolescent Family Life Program (AFLP) Contracting Requirement

Except as provided in Section 42-766.132, the CWD shall contract with an existing AFLP provider for case management services.



.132 Exceptions to Contracting With AFLP

The CWD may contract with other public or nonprofit agencies or school districts for all or part of case management services or may provide all or part of case management services directly only when one of the following conditions exist:

- (a) AFLP services are not available; or
- (b) AFLP services are not cost-effective; or
- (c) The CWD has an existing GAIN teen parent program operating under an approved GAIN County Plan.

.133 Requirements When Not Contracting With AFLP

When case management services are provided by the CWD or by an agency which is not administering an AFLP, the following conditions shall be met:

- (a) The services shall conform as determined by CDHS to the standards and scope of the services provided through the AFLP of the "California Department of Health Services, Maternal and Child Health, Adolescent Family Life Program Standards, March 1, 1993, and Cal-Learn Addendum, January 26, 1994," as determined by CDHS which are hereby incorporated by reference; and
- (b) The Cal-Learn County Plan as specified in Section 42-767 shall include justification for not contracting with the AFLP under Section 42-767.121(a); and
- (c) The services shall be designed with the cooperation of the local county health agency.

.2 Case Manager

General responsibilities for the case manager shall include the following:

- .21 Provide referrals to appropriate community services needed to assist the teen parent to continue in or return to school.
- .22 Monitor each teen parent through monthly contacts with the teen parent, collateral and/or service providers to determine the effectiveness of service provision. Assess progress toward case plan goals and make the necessary changes to improve the teen parent's program.
- .23 Act as a counselor, colleague, and role model so that each teen parent has someone to trust and to turn to for advice, guidance and ideas.
- .24 Ensure that each teen parent understands the program requirements and consequences of not making adequate or satisfactory progress.
- .25 Identify the need for and method of providing supportive services under Section 42-765.

- .26 Develop a case plan under Section 42-766.3 to assist the teen parent to graduate from high school or its equivalent.
- .27 Provide program exemption, program deferral, good cause, bonus and sanction determinations or recommendations.
  - .271 Case managers who are not CWD employees shall provide the CWD with a recommendation and supporting documentation.
  - .272 CWDs shall make the appropriate determination.
- .28 Make reasonable efforts to reach teen parents who are not making adequate progress.

### .3 Case Plan

The case manager shall develop a case plan. The case plan shall include, but not be limited to, the following:

- .31 Planned intervals of contacts and visits between the case manager and the teen parent, and the head of the AU, as appropriate.
  - .311 At a minimum, the intervals shall include monthly contacts and quarterly case plan reviews with the teen parent.
- .32 A description of the teen parent's school program.
  - .322 For a teen parent not enrolled in and/or attending school, the date the teen parent shall be expected to be enrolled in and attending school shall be documented.
- .33 A report card submittal schedule containing no more than four calendar dates per 12-month period on which the teen parent shall be required to submit a report card to the case manager.
  - .331 Teen parents in school programs which routinely issue 4 or less report cards in a 12-month period shall be required to submit the number of report cards issued.
  - .332 When a teen parent fails to participate ~~with~~ in the development of the case plan, the case manager shall establish a report card submittal schedule containing four dates within the 12-month period.
  - .333 The date for submission of report cards shall be 10 working days from the date the report card is issued by the school.
  - .334 For purposes of bonuses and sanctions under Section 42-769, the requirement to submit a report card shall not begin until the teen parent has been required to participate in the Cal-Learn Program for 90 calendar days.
    - (a) The 90-day period begins the first day of the month after one of the following conditions are met.

- (1) The date the teen parent attended orientation.
- (2) The date the teen parent and head of the AU were sent program notification under Section 42-764.23.

HANDBOOK BEGINS HERE

- (b) Example: Sara was notified of the requirements to participate in the Cal-Learn Program during orientation in September. She receives a report card in January. She is required to submit this report card to her case manager.
- (c) Example: Maryanne did not attend orientation and was subsequently sent a notice of the Cal-Learn Program requirements in March. She receives a report card in May. She is not required to turn in this report card. She subsequently received a report card in November, which she is required to submit.

HANDBOOK ENDS HERE

- (d) When a break in participation of less than 90 days occurs during the 90-day participation period, the days of the break shall not be counted as part of the 90-day participation period.

- (1) A break in participation shall be a break-in-aid or a Cal-Learn exemption.

.34 Supportive services to be provided to the teen parent.

.35 Documentation of referrals to or provision of services to the teen parent including those in Section 42-766.111.

.351 The documentation shall include whether the referred service was provided to the teen and the outcome of service provision.

.4 Report Card Submittal Schedule Notification and Case Plan Update

.41 The teen parent's report card submittal schedule under Section 42-766.33 shall be sent to the teen parent and the head of the AU within 30 days from either the date the teen parent attended orientation or the date the teen parent and the head of the AU were sent program notification under Section 42-764.23.

.42 Following a teen parent's deferral or break in participation of less than 90 days, the case manager shall review and update the teen parent's report card submittal schedule.

.421 The schedule shall be sent to the teen parent and the head of the AU within 10 working days from the date the case manager was informed by the CWD that the teen parent's break or deferral ended.

.43 The case manager shall review and update the case plan as necessary, but no less than every three months.

.5 Exemption and Deferral Determination

.51 If it has not been determined prior to the development of the case plan or if the teen parent's circumstances change, the case manager shall determine if the teen parent shall be exempt under Section 42- 763.2 or deferred under Section 42-763.3 from the Cal-Learn Program.

.52 When a case manager who is not a CWD employee finds that a teen parent should be exempt or deferred, the case manager shall make a recommendation to the CWD and provide substantiating documentation.

.521 The CWD shall review the case manager's documentation and recommendation to determine if the teen parent shall be exempt or deferred.

.6 Determination of School Progress

Case managers shall determine if report cards are submitted as required in the teen parent's report card submittal schedule under Section 42-766.33 and shall review report cards to determine school progress for the purposes of a bonus or sanction.

.61 Case Manager Is Not A CWD Employee

To initiate a bonus or sanction, the case manager shall provide the CWD with the recommendation and the documentation, including the report card, which substantiates the recommended action.

.62 Report Card Determination of Adequate and Satisfactory Progress

For the purpose of determining adequate and satisfactory progress for report cards under Section 42-766.33, adequate progress shall mean maintaining a grade point average of at least 1.0 and satisfactory progress shall mean maintaining a grade point average of 2.0 and above on a scale where A equals 4.0 points and F equals 0 points.

.621 Report Cards Containing Letter Grades

When a report card containing letter grades is provided without that report's grade point average or individual letter grade point values, the report card's grade point average shall be computed by giving each grade a point value as specified below:

(a) A+, A, A- equal 4.0

B+, B, B- equal 3.0

C+, C, C- equal 2.0

D+, D, D- equal 1.0

F, Incomplete equal 0

.622 Report Cards Without Letter Grades

When report cards do not contain letter grades, or the school providing letter grades has an alternative method of determining adequate and satisfactory progress, satisfactory and adequate progress shall be determined by the school's regular assessment of periodic progress.

.623 For the purposes of this section, only grades contained on the submitted report card shall be used for grade point average determination. Cumulative grade point averages shall not be used.

.63 Report Cards Submitted as Required

When the teen parent submits the report card as required, the case manager shall take the following action:

.631 Satisfactory Progress

Initiate the \$100 bonus for the AU when the report card reflects satisfactory progress under Section 42-766.62.

(a) The case manager shall initiate a bonus as soon as administratively possible, but no later than 5 working days from the date:

(1) The report card was submitted as required on the report card submittal schedule; or

(2) It has been determined that the teen parent had good cause for late report card submittal under Section 42-766.641; or

(3) The case manager received a completed grade or at the end of the time period identified under Section 42-766.65.

(b) The \$100 bonus shall not be initiated when the teen parent will receive the \$500 bonus under Section 42-766.8 for the same report card period.

.632 Adequate Progress

Notify the head of the teen parent's AU that the report card reflects adequate progress and that no grant adjustment shall be made when the report card reflects adequate progress under Section 42-766.62.

.633 Failure to Demonstrate Adequate Progress

Make reasonable efforts as specified in Section 42-766.7 when the report card does not reflect that the teen parent is demonstrating adequate progress under Section 42-766.62.

- (a) If a good cause determination is not requested within the 10-day reasonable efforts period, the case manager shall initiate the \$100 sanction.
- (b) If a good cause determination is requested within the 10-day reasonable effort period, the case manager shall make a good cause determination.
  - (1) If good cause is found, the case manager shall not initiate the \$100 sanction.
  - (2) If good cause is not found, the case manager shall initiate the \$100 sanction.

.64 Report Cards Not Submitted as Required

When a teen parent fails to submit a report card as required, the case manager shall make reasonable efforts under Section 42-766.7.

.641 Good Cause Found for Late Submittal

If the teen parent submits the report card within the 10-day reasonable effort period, and it is determined that there was good cause for late submittal, the case manager shall treat the report card as having been submitted as required under Section 42-766.63.

.642 Good Cause Not Found for Late Submittal

If the report card is submitted within the 10-day reasonable effort period,\*but good cause for late submittal is not found, the sanction shall be reduced to \$50 when:

\* as provided in Section 42-766.7,

- (a) The report card reflects adequate progress or better, or
- (b) The teen parent showed good cause for a report card which did not reflect adequate progress.

HANDBOOK BEGINS HERE

- (1) Example: A teen parent submits a report card within the ten-day reasonable effort period. The case manager determines that the teen parent did not have good cause for the late submittal. If the report card reflects satisfactory progress or if the teen parent can demonstrate good cause for a report card that does not reflect satisfactory progress, the sanction is reduced to \$50.

HANDBOOK ENDS HERE

.643 Report Card Not Submitted

The case manager shall initiate the \$100 sanction under Section 42-769.2 when the teen parent does not turn in the required report card by the end of the 10-day reasonable effort period.

.65 Report Cards Containing Incomplete Grades

When a teen parent submits a report card containing an incomplete grade(s) which could affect the eligibility of a bonus or sanction, the CWD shall follow the procedure under either Sections 42-766.651 or .652. The option chosen shall be established countywide.

.651 A bonus or sanction shall not be initiated until after 45 calendar days from the date the incomplete report card was received by the case manager. A completed grade(s) may be submitted during the time period established by the teen parent's school for completing grades.

(a) Adequate and satisfactory progress shall be determined using the grades received by the end of the 45-day period beginning on the date the case manager received the report card containing the incomplete grade(s).

(b) The teen parent's eligibility of a bonus or sanction shall be determined again when a completed grade is submitted after this 45-day period, but within the time period established by the teen parent's school for completing grades.

(c) The case manager shall treat the report card as having been submitted as required under Section 42-766.63.

.652 A bonus or sanction shall not be initiated until after the time period established by the school the teen parent is attending for completing grades.

(a) Adequate and satisfactory progress shall be determined using the grades received by the end of the school's allowable time period and the case manager shall treat the report card as having been submitted as required under Section 42-766.63.

.653 Within 5 working days from the date the case manager received the incomplete report card under Sections 42-766.651 or .652, the case manager shall send a notice to the teen parent and the head of the AU explaining the CWD's procedure for submitting a completed grade and the consequences of not submitting a completed grade.

.66 Notification of Failure to Participate

If good cause is not found for failure or refusal to comply with program requirements on the part of the teen parent, the case manager shall inform the teen parent and the head of the AU of the consequences of not participating and provide the teen parent with the telephone number and address of the local welfare rights organization or legal aid society should the teen parent need further assistance.

.67 Conclusion of Cal-Learn Participation

.671 A teen parent shall not participate in the Cal-Learn Program after the end of the month in which the teen parent turns 19 years old.

(a) When the teen parent qualifies for a \$100 or \$500 bonus or a sanction before the end of the month in which the teen parent turns 19 years old and the action was not initiated before the end of that month, the case manager shall initiate the bonus or sanction after the end of that month.

(b) The case manager shall not initiate a bonus or sanction for a report card period that ends after the month the teen parent turns age 19.

(c) When a teen parent ends participation due to turning age 19 or when the teen parent earns a high school diploma or its equivalent, the case manager shall notify the teen parent that the teen parent is no longer in the Cal-Learn Program.

.672 When it is known to the case manager that a teen parent is approaching the end of participation in the Cal-Learn Program, the case manager shall assist the teen parent in transitioning to independent living or to participation in GAIN.

.7 Reasonable Efforts

When a teen parent fails to make adequate progress, either by submitting a report card reflecting less than adequate progress or by not submitting a report card as required, within 10 working days from the date the teen parent failed to make adequate progress the case manager shall:

.71 Send a notice to the teen parent of the consequences of not making adequate progress.

.72 Make reasonable efforts to reach the teen parent (and the head of the AU, if appropriate) who is in danger of continuing to fail in school or to not attend school.

.73 Make reasonable efforts to secure a face-to-face meeting with the teen parent.

.74 For the purposes of this section, performance of any one of the following shall constitute reasonable efforts:



- .741 A telephone call to the teen parent;
- .742 Personal contact with the teen parent;
- .743 Written notification with an appointment date shall constitute reasonable efforts if the case manager does not have contact with the teen parent by telephone or by an attempt to have personal contact.
- .75 Begin a good cause determination as specified under Sections 42-768.2 and .3 when a teen parent requests a good cause determination.
- .76 Document in the case file all efforts made to reach the teen parent and arrange a face-to-face meeting under Sections 42-766.72 and .73.
- .8 Teen Parent Graduates from High School
 

The case manager shall receive documentation submitted indicating graduation from high school or its equivalent.

  - .81 When graduation is verified with the school the case manager shall initiate the \$500 bonus under Section 42-769.1.
  - .811 The case manager shall initiate the bonus as soon as administratively possible, but not more than five working days from the date the case manager received the graduation documentation from the teen parent.

Authority Cited: Sections 10533 and 10544, Welfare and Institutions Code.

Reference: Sections 11331.5(a), (b) and (c); 11331.7; 11332; 11332.5(a), (a)(1), (a)(3) and (a)(4), (b) and (c); 11333(a), (b) and (b)(1); 11333.7, (a), (b)(1), (c), (d), (e), (f) and (g); 11334 and 11334.2, Welfare and Institutions Code; 45 CFR 250.10(c); and 45 CFR 250.40(a); ~~and California Department of Health Services, Maternal and Child Health, Adolescent Family Life Program Standards dated March 1, 1993 and the Cal Learn Addendum dated January 26, 1994.~~

Adopt new Section 42-767 to read:

42-767 CAL-LEARN COUNTY PLAN

42-767

.1 County Plan

CWDs shall submit a Cal-Learn County Plan as part of the GAIN County Plan under Section 42-720. The Cal-Learn County Plan shall include the following:

.11 Networking

A description of services in the county currently available to teens, including:

- .111 Identification of education and supportive services available to pregnant and custodial teen parents.
- .112 The extent to which the programs providing these services are currently serving AFDC recipients.
- .113 The resources that these programs may make available to Cal-Learn teen parents.
- .114 The linkages that the CWD has established and/or plans to establish with these programs.

.12 Case Management Provision

A description of the method of providing the case management services as described in Section 42-766 and the agency or organization that shall administer these services.

- .121 When all or part of the case management services are to be provided by the CWD or by an agency which is not administering AFLP, the plan shall contain the following:
  - (a) Justification that one of the conditions specified in Section 42-766.132 is met;
  - (b) Verification that the services have been designed in conjunction with the local county health agency;
  - (c) Case management protocols which describe the delivery of services ~~for~~ to meet the AFLP Program Standards ~~pursuant to~~ ~~guidelines published by CWS;~~
  - (d) A listing of network service providers for which linkage agreements have been established; and
  - (e) A description of agencies organizing and participating in the network, network meeting plans, and meeting purpose.

.13 A Cal-Learn ~~Program~~ budget proposal ~~shall be submitted in a format provided by CDSS and~~ consistent with CDSS's allowable expenditure level ~~guidelines~~ shall be submitted to CDSS.

.14 Caseload Description

.141 An estimate of the annual Cal-Learn caseload.

.142 A description of the method by which the caseload shall be identified and participants notified of the ~~requirements to participate in~~ Cal-Learn requirements. This shall include:

(a) The schedule by which recipients of AFDC who shall be required to participate in Cal-Learn shall be phased into the CWD's program.

(b) The initial CWD plan implementing Cal-Learn shall describe the process by which the CWD shall bring existing recipients of AFDC into Cal-Learn.

.2 Coordination With AFLP

A CWD shall coordinate with the AFLP provider in the county as part of the CWD's planning process.

.21 If there are no AFLPs in the county, the CWD may either:

.211 Coordinate with the local county health agency; or

.212 Coordinate with an AFLP provider in an adjoining county.

.22 The plan shall contain a description of the CWD's coordination with AFLP.

.3 Plan Submittal

CWDs shall submit the initial Cal-Learn County Plan for CDSS review and approval no later than November 30, 1994.

.4 Plan Review

CDSS shall approve or deny the Cal-Learn County Plan no more than 60 days from the time the plan is submitted to CDSS.

.41 Any Cal-Learn County Plan which proposes to contract case management services with an agency other than an AFLP, or which proposes to offer case management services through the CWD, shall have the case management services section described in Section 42-767.11 and Sections 42-767.121(c), (d) and (e), reviewed and approved by the California Department of Health Services (CDHS). CDSS shall submit the plan to CDHS for review.

.5 Effective Date

The Cal-Learn Program shall become operative in a county on the date the plan is approved by CDSS or the date specified in the Cal-Learn County Plan, whichever is later.

Authority Cited: Sections 10533 and 10544, Welfare and Institutions Code.

Reference: Sections 11320.6 and .8, 11333(b) and (b)(1), 11333.5 and (c), and 11334.2, Welfare and Institutions Code.

Adopt new Section 42-768 to read:

42-768 CAL-LEARN GOOD CAUSE DETERMINATION

42-768

.1 Good Cause Request

Teen parents may make a request to the case manager for a good cause determination ~~to the case manager~~ regarding failure to demonstrate adequate progress.

- .11 A teen parent may request this determination prior to the turning in of a report card or during the 10-day reasonable effort period under Section 42-766.7.

.2 Good Cause Review

The case manager shall make a good cause determination when a teen parent requests such a review under Section 42-768.1.

- .21 When a teen parent had a break in participation under Section 42-766.334(d)(1) during the report card period, the good cause review shall include the impact the break had on the teen parent's ability to make adequate progress.
- .22 The case manager shall issue a notice containing the good cause determination to the teen parent and the head of the AU no later than 15 working days after a good cause determination was requested.
- .23 When the case manager is not a CWD employee, the case manager shall review the events on which the teen parent based the request and provide a recommendation with substantiating documentation to the CWD.
- .231 The CWD shall review the case manager's documentation and recommendation to determine if the teen parent does or does not have good cause.
- .232 The case manager shall issue a notice to the teen parent and the head of the AU containing the good cause determination after the CWD has made a determination.

.3 Good Cause Criteria

The following shall be reasons for good cause only when the event is beyond the teen parent's control and substantially deprived the teen parent/~~of the~~ ability to make adequate progress in school and no home study or other special arrangements could be made with the school.

- (a) The teen parent is temporarily ill or incapacitated.
- (b) The teen parent is required to appear in a court proceeding or is incarcerated.
- (c) Inclement weather or other act of nature precludes the teen parent and other persons similarly situated from traveling to an activity.

- (d) There is a breakdown in transportation arrangements with no ready access to alternate transportation.
- (e) The teen parent refuses to accept major medical services even if the refusal precludes participation in the program.
- (f) Licensed or exempt child care is not reasonably available during the teen parent's hours of school, including commuting time; or child care is needed for a child who meets the criteria of Section 42-750.22, but who does not meet the criteria of Section 42-750.21, and therefore is not eligible for Cal-Learn paid child care.
  - (1) "Reasonably available" child care includes having at least two choices of child care arrangements which do not require either of the following:
    - (A) Adding more than one-half hour one-way to the participant's commuting time; or
    - (B) The child to transfer to a different school.
  - (2) The choices of child care shall meet the requirements specified in Section 42-750.31.
- (g) A breakdown or interruption of child care arrangements occurs.
- (h) Suitable special needs child care is not reasonably available for children with disabilities, chronic illnesses, or other special needs.
- (i) The teen parent meets any of the exemption criteria as specified in Section 42-763.2 or deferral criteria as specified in Section 42-763.3.
- (j) The teen parent is experiencing a family crisis or change of individual or family circumstances, such as any of the following:
  - (1) Death of a spouse, parent, or child.
  - (2) Illness of a spouse or child which requires the teen parent's immediate attention.
- (k) At the discretion of the CWD, any substantial and compelling reasons other than those specified in this section.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11333.7(b)(2), Welfare and Institutions Code and 45 CFR 250.40(a).

Adopt new Section 42-769 to read:

42-769 APPLICATION OF BONUSES AND SANCTIONS

42-769

.1 Issuing the Bonus

When the CWD receives the appropriate documentation and determines that a bonus is due, the CWD shall issue the bonus as a supplement to the aid payment that was made to the AU in the month in which the bonus was earned by the eligible teen parent.

- .11 A bonus is considered to be earned as of the last day of the report card period even though the report card or certificate of graduation ~~may~~ is not ~~be~~ issued until a later date.

HANDBOOK BEGINS HERE

- .111 Example: A report card period ends on June 30. The case manager notifies the CWD on July 10 that a bonus is due. The CWD issues a \$100 supplement to the June AFDC payment in August even if the teen parent was discontinued after June 30.

HANDBOOK ENDS HERE

- .12 Upon receipt of documentation and determination that a bonus is due, the CWD shall issue the bonus:
- .121 No later than the month following receipt of the documentation when the documentation is received by the eleventh calendar day of the month;
- .122 No later than the second month following receipt of the documentation when the documentation is received after the eleventh calendar day of the month;
- .123 In the name of the caretaker relative when the bonus is for satisfactory school progress;
- .124 In the name of the teen parent when the bonus is for graduation from high school or its equivalent;
- (a) The CWD shall not issue the \$100 bonus for satisfactory school progress when the teen parent will receive a \$500 graduation bonus for the same report card period.
- .125 Even when the AU has an existing AFDC overpayment. A Cal-Learn bonus shall not be offset by an existing overpayment adjustment.

.2 Applying the Sanction

When the CWD receives the appropriate documentation and determines that a sanction is applicable, the CWD shall process the sanction as soon as administratively practicable as follows:

- .21 Send a timely notice of action to the caretaker relative prior to applying the sanction.
- .22 Apportion the sanction equally over the two consecutive months following the timely notice except where the AU receives a grant of less than \$10 in which case no sanction is applied.

HANDBOOK BEGINS HERE

- .221 Example: A teen parent fails to achieve adequate grades and her case manager notifies the CWD on July 10 that a sanction is due. In August the teen parent's AU is eligible for a grant of \$8. No sanction can be applied in August. In September the AU is eligible for a grant of \$58. The CWD applies the apportioned \$50 sanction amount and the AU receives a grant of \$8.

HANDBOOK ENDS HERE

- .23 When the grant amount, prior to application of the sanction, is less than the amount of the apportioned sanction, the grant amount shall be zero. No remainder of the apportioned sanction shall be applied to subsequent months. In these cases, the family shall be considered AFDC recipients for all other purposes including eligibility for Medi-Cal.

HANDBOOK BEGINS HERE

- .231 Example: In February an AU is eligible for a grant of \$35. The teen parent's apportioned sanction amount is \$50. Since the grant amount is less than the apportioned sanction amount, the grant will be zero. In March the AU is eligible for a grant of \$75. The CWD will apply the second apportioned sanction amount (\$50) and issue a grant of \$25. No remainder of the first month's apportioned sanction is applied to the second month's aid payment.

HANDBOOK ENDS HERE

- .24 Adjust the grant for an underpayment or an overpayment prior to applying the apportioned sanction amount.
- .25 Apply one apportioned sanctioned amount for each teen parent per month when there are multiple sanctioned teen parents in the AU.

HANDBOOK BEGINS HERE

- .251 Example: An AU contains two teen parents. They both fail to achieve adequate grades for the report card period ending in June. The case manager notifies the CWD on



July 10 that each is due a sanction. The CWD will apply a \$100 sanction in August (\$50 for each teen parent) and a \$100 sanction in September (\$50 for each teen parent).

HANDBOOK ENDS HERE

- .26 Apply overlapping sanctions for individual teen parents consecutively.

HANDBOOK BEGINS HERE

- .261 Example: A teen parent fails to achieve adequate grades for the report card period ending in June. The case manager is not appraised of this situation until October 1 and notifies the CWD that a sanction is due on October 5. On October 10 the case manager notifies the CWD that the same teen parent is due a sanction for the report card period ending in September. The CWD applies a \$50 sanction in November, December, January, and February.

HANDBOOK ENDS HERE

- .3 Change in AU

The sanction shall follow the teen parent and be applied to the AU in which the teen parent is a member at the time the sanction is applied.

HANDBOOK BEGINS HERE

- .31 Example: A teen parent moves out of his/her mother's home and establishes an AU of his/her own. The teen parent is discontinued from the mother's AU at the end of June and is eligible in the new AU effective July 1. On July 10 the CWD determines that a sanction is due for the report card period ending June 30. The CWD applies the sanction to the new AU in the months of August and September.

HANDBOOK ENDS HERE

- .4 Treatment of Bonuses and Sanctions in Other Calculations

The CWD shall not include a Cal-Learn bonus or sanction in the calculation of an overpayment adjustment, a homeless assistance payment, or a reduced income supplement payment.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11333.7, (a) and (d), Welfare and Institutions Code; 45 CFR 250.40(a); Federal Waiver Terms and Conditions for the California Work Pays Demonstration Project, March 1994, and Waiver Authority for the California Work Pays Demonstration Project as transmitted by the United States Department of Health and Human Services Administration for Children and Families letter dated March 1, 1994.

Amend Section 82-836.1 to read:

82-836 FEDERAL AFDC PROGRAM FOR PREGNANT WOMEN

82-836

.1 (Continued)

HANDBOOK BEGINS HERE

- .15 See Section 42-762.7 regarding federal eligibility during the first and second trimesters for pregnant Cal-Learn participants with no other eligible children.

HANDBOOK ENDS HERE

.2 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 233.10(a)(1) and (a)(1)(iv), 45 CFR 233.90(c)(2)(iv), and 45 CFR 206.10(a)(1)(vii), and Section 11450(b), Welfare and Institutions Code.

REGULAR  
NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on  
reverse)Original  
For use by Secretary of State only

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (If any)

0993-35

OAL FILE  
NUMBERSNOTICE FILE NUMBER  
Z-93-1019-02

REGULATORY ACTION NUMBER

94-0801-015

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

SEP 13 1994

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

SEP 13 1994

At 3:34 O'clock P.M.  
TONY MILLER, Acting Secretary of StateBy Collette Cornick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE McKnight v. McMahon		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 93-#44-2	PUBLICATION DATE 10-29-93	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND 42-215.4
	REPEAL 42-215.5

## 2. TYPE OF FILING

- ☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

- ☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

May 19, 1994 to June 3, 1994

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

- ☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Frank Vitulli, Chief, Regulations Development

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

JUL 29 1994

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 42-215.4 and repeal Section 42-215.5 to read:

42-215 DETERMINING VALUE OF PROPERTY (Continued)

42-215

.4 Determination of Value of a Motor Vehicle

The market value of a motor vehicle is determined by multiplying the annual license fee (which does not include registration or weight fees) by 50% to determine the net market value; deduct from the market value any encumbrances upon the motor vehicle, as described in 16 below.

Should the license fee be unknown, unavailable or not current, the county shall establish the value by contacting the Department of Motor Vehicles and ascertaining what the license fee would be if the vehicle were currently registered.

If the county believes that the method prescribed in the first paragraph of 14 above does not result in accurate evaluation of the motor vehicle, the county may substitute an appraised amount determined by a county-designated property valuation specialist.

If the applicant or recipient does not agree with the value arrived at in the first paragraph of 14 above or the amount determined by the county-designated property valuation specialist, the applicant or the recipient may submit three appraisals by auto dealers, insurance adjusters or personal property appraisers. The average of these independent appraisals will be used by the county in evaluating the motor vehicle.

.41 The county shall establish a reasonable market value for all motor vehicles.

.411 The evidence that may be used by the county to determine reasonable value includes, but is not limited to:

- (a) California Department of Motor Vehicles (DMV) registration card to complete the DMV method as presented in Handbook Section 42-215.44, or
- (b) Wholesale "Blue Book", or
- (c) Bills of sale, or
- (d) Newspaper advertisements for vehicles of like make and model in a similar condition, or
- (e) Written statements of the market value from motor vehicle dealers, or
- (f) Testimony or statements as to the value and/or condition of the vehicle.

.42 The applicant or recipient shall have the opportunity to rebut the county's value determination.

.421 For rebuttal, the applicant or recipient may provide evidence which includes, but is not limited to:

(a) Estimates of repair, or

(b) Photographs of the vehicle that demonstrate current condition, or

(c) A sworn statement as to the condition of the vehicle, or

(d) Any other evidence including that listed in Section 42-215.411.

.43 The county shall subtract verified encumbrances, as provided in Section 42-215.6, from the market value of the vehicle.

.431 For purposes of this section only, an estimate of repair to make a vehicle driveable from a person in the business of repairing vehicles shall be treated as an encumbrance.

(a) When more than one estimate of repair from persons in the business of repairing vehicles is submitted, the county shall use the average of the estimates.

(b) When the applicant or recipient has actually contracted for repairs, the county shall use the contracted amount.

HANDBOOK BEGINS HERE

.44 The DMV method determines a vehicle's value by multiplying the annual license fee (which does not include registration nor weight fees) by 50.

.45 Example:

1988 Buick has DMV Class Code BA indicates license fee of \$44

$\$44 \times 50 = \$2200 - 0 \text{ (encumbrances)} = \$2200 \text{ vehicle market value}$

The value of the 1988 Buick exceeds the property limits. The county sends a denial NOA which informs the applicant of the value determination that has resulted in ineligibility and of the right to rebut the determination. The applicant phones the worker to dispute the value. The applicant brings in photographs of the vehicle that demonstrate damage to the front end and an estimate of repair of \$1800 to make the vehicle driveable.

<u>\$2200</u>	<u>vehicle market value</u>
<u>- 1800</u>	<u>repair estimate to make the vehicle driveable</u>
<u>\$ 400</u>	<u>vehicle net market value</u>

The applicant presented documentation that allowed the county to make a reasonable determination of the vehicle's value. The denial is rescinded.

HANDBOOK ENDS HERE

.5 *Acceptable Evidence of Value of a Motor Vehicle* Reserved

*131 The applicant's or recipient's current DMV registration card for each motor vehicle owned by him is acceptable evidence of the value.*

*132 Acceptable evidence of the amount of encumbrances will be the same as that listed in 134 above.*

.6 Encumbrances (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10554 and 11155, Welfare and Institutions Code; 45 CFR 233.20(a)(3)(i)(A)(2); and McKnight v. McMahon Court Order.



# REGULAR

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

AGENCY  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

(See instructions on reverse)

Original  
For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER 94-0804-025	EMERGENCY NUMBER	AGENCY FILE NUMBER (if any) RDB#0194-01	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

SEP 15 1994

Office of Administrative Law

NOTICE

REGULATIONS

94 SEP 15 PM 3:16

SECRETARY OF STATE  
OF CALIFORNIA

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Excluded Persons/Pregnancy Verification		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-#132	PUBLICATION DATE 4-1-94	

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

#### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND 40-128.12, .121, 44-133.31, .7, 80-301 and 82-832 REPEAL

#### 2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

#### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs., title 1, §§ 44 and 45)

N/A

#### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) 10-1-94

#### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

#### 6. CONTACT PERSON

Frank Vitulli, Chief, Regulations Development

#### TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

ELOISE ANDERSON, DIRECTOR

DATE

AUG 4 1994



**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Sections 40-128.12 and .121 to read:

40-128 APPLICANT'S STATEMENT OF FACTS

40-128

.1 Filing Statement of Facts

.12 Minor Parent Residing with Unaided Senior Parent(s) of legal guardianship

.121 The minor parent (see Section 44-133.71) who applies for aid while residing in the same household as his/her unaided senior parent(s) of legal guardianship must report the income of his/her parent(s) of legal guardianship.

In addition to the form CA 2 or CA 20, the minor parent shall submit a complete Supplement to the Statement of Facts (CA 23) to the county welfare department. The minor parent is responsible for obtaining all information necessary to complete the CA 23 and for obtaining the necessary verification from the senior parent(s) of legal guardianship. The information and the submitted verification must provide the county welfare department with the facts necessary to make a correct eligibility and grant determination.

(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.50(a)(1)(i)(A); 42 USC 602(a)(39); Family Support Action Transmittal 91-15 dated April 23, 1991; and Section 5053 of the Omnibus Budget Reconciliation Act (OBRA) of 1990.

Amend Sections 44-133.31 and .7 to read:

44-133 TREATMENT OF INCOME -- AFDC (Continued)

44-133

.3 (Continued)

.31 Income shall not be allocated to meet the needs of any parent or child who is required to be included in the filing unit and has been sanctioned or who has failed to cooperate in meeting a condition of eligibility. Actions which are subject to sanction or which constitute a failure to cooperate include, but are not limited to, any one of the following:

(d).311 Failing to register for ~~WIN DEMO~~/ JS, GAIN, or refusing, without cause, to participate in the programs;

HANDBOOK BEGINS HERE

(Continued)

HANDBOOK ENDS HERE

(d).312

(Continued)

HANDBOOK BEGINS HERE

(Continued)

HANDBOOK ENDS HERE

(d).313

(Continued)

HANDBOOK BEGINS HERE

(Continued)

HANDBOOK ENDS HERE

(d).314

(Continued)

HANDBOOK BEGINS HERE

(Continued)

HANDBOOK ENDS HERE

/øY.315

(Continued)

. HANDBOOK BEGINS HERE

(Continued)

HANDBOOK ENDS HERE

/fY.316 (Continued)

.32 through .634 (Continued)

.7 Income in Cases Where the Senior Parents ~~of Legal Guardians~~ Reside in the Home with a Minor Parent  
(Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10604, 11450, 11452, 11453, and 11486, Welfare and Institutions Code; 45 CFR 205.50(a)(1)(i)(A); 45 CFR 233.20(a)(1)(i); 45 CFR 233.20(a)(3)(vi)(B) and (xiv); and 45 CFR 233.90(c)(2)(i); Family Support Administration Action Transmittal 91-15 (FSA-AT-91-15), dated April 23, 1991; and Omnibus Budget Reconciliation Act (OBRA) of 1990; U.S. Department of Health and Human Services Federal Action Transmittal No. FSA-AT-91-4 dated February 25, 1991; ~~and~~ Simpson v. Hegstrom, 873 F.2d 1294 (1989); and Federal Register, Vol. 58, No. 182, pages 49218 - 20, dated September 22, 1993 and 42 USC 602(a)(39).

Amend Section 80-301m.(2) to read:

80-301 DEFINITIONS (Continued)

80-301

m. (1) (Continued)

(2) Medical Verification  
of Pregnancy

"Medical verification of pregnancy" means a written statement from a physician, physician's assistant, state certified nurse midwife, nurse practitioner or by an authorized member of the physician's staff designated medical or clinic personnel with access to the patient's medical record that provides information sufficient to substantiate the diagnosis and estimated delivery date.  
(Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: 45 CFR 233.90(c)(2)(iv) and Sections 10553 and 11450, Welfare and Institutions Code.

Amend Section 82-832.1 to read:

82-832 EXCLUDED PERSONS

82-832

.1 (Continued)

.18 Refugee Eligible for  
Alternative Project

Is a refugee who is eligible for and required  
to participate in an alternative project  
implemented pursuant to Section 412(e)(7) of  
the federal Immigration and Nationality Act 8  
USC 1522(e)(7). (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.52, 45 CFR 206.10(a)(5)(i), 45 CFR 232.12(d), 45 CFR 233.10(a)(1)(i), (a)(1)(i)(B), and (a)(3), 45 CFR 233.20(a)(1)(i), (a)(3)(ii)(C) and (F), and (a)(3)(ix), 45 CFR 233.50, 45 CFR 233.51, 45 CFR 233.90(c), (c)(1), and (c)(2)(iv), 45 CFR 233.100(a)(5)(ii), 45 CFR 233.106, and 45 CFR 250.34(a) and (c), and (c)(2); and Sections 11008.13, 11104, 11157, 11201(b), 11203, 11263.5, 11268, 11270, 11315, 11320.6(e), 11406.5, 11450, 11477, and 11486, Welfare and Institutions Code.



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

For use by Secretary of State only

## AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (If any)

RDB #0494-06

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

Z94-0415-01

REGULATORY ACTION NUMBER

94-0808-02C

EMERGENCY NUMBER

94-0428-01E

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

SEP 19 1994

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

SEP 19 1994

At 3:48 O'clock P.M.  
TONY MILLER, Acting Secretary of StateBy Roberta Cornick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Emergency Shelter Care Funding		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-#117-2	PUBLICATION DATE 4-29-94

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND 31-002 and 31-415
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Chief, Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

AUG 5 1994

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.



## (e) (Continued)

- (2) "Emergency Assistance" means the program which supports services to families for the purpose of alleviating emergency situations that meet certain criteria as specified in the Title IV-A State Plan implementing 45 CFR 233.120.
- (3) (Continued)
- (4) (Continued)
- (5) (Continued)
- (6) (Continued)
- (7) (Continued)
- (8) (Continued)
- (9) (Continued)
- (10) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 300, 300(c), 300(e), 306(b), 361, 11400(a), 16501(a)(3), 16501.1(f)(7), and 16503, Welfare and Institutions Code; Section 11165 et seq., Penal Code; Section 265, Civil Code; 42 USC Section 675; Section 1502, Health and Safety Code; 45 CFR 233.120.

- .1 Provision of emergency shelter care shall not exceed 30 calendar days in any one episode that requires removal of the child except as follows:
  - .11 The county shall be permitted to provide emergency shelter care beyond 30 calendar days only when the case record documents the existence of one of the following circumstances:
    - .111 Emergency shelter care is necessary to meet the continuing protective needs of the child, and there is no other location wherein these protective needs can be met.
    - .112 The child has special needs which render him/her extremely difficult to place, and there is no other location available wherein these special needs can be met.
  - .12 The circumstances permitting extension of emergency shelter care beyond 30 calendar days shall be reviewed and the extension approved in writing by an administrative official higher than a first-level supervisor.
- .2 In no event shall federal and/or state funds appropriated for the purpose of providing any of the child welfare services specified in Division 31 be provided for emergency shelter care beyond 30 calendar days in any one episode except as follows:
  - .21 Each county is permitted to utilize county-only funds to draw down federal financial participation under the Emergency Assistance program, with no state share of cost, in order to provide emergency shelter care beyond 30 calendar days in any one episode if:
    - .211 the child is from a needy family authorized to receive Emergency Assistance funding in accordance with provisions in the Title IV-A State Plan implementing 45 CFR 233.120; and
    - .212 the circumstances specified in Section 31-415.1 are documented in the child's case record.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 16501(a)(3), Welfare and Institutions Code and 45 CFR 233.120.

45 CODE OF FEDERAL REGULATIONS

233.120 Emergency assistance to needy families with children.

- (a) Requirements for State plans. A State plan under Title IV, Part A, of the Social Security Act, providing for emergency assistance to needy families with children must:
- (1) Specify the eligibility conditions imposed for the receipt of emergency assistance. These conditions may be more liberal than those applicable to other parts of the plan. (See paragraph (b)(1) of this section for scope of Federal financial participation.)
  - (2) Specify if migrant workers with families will be included and, if emergency assistance will not be available to them Statewide, the part or parts of the State in which it will be provided.
  - (3) Specify the emergency needs that will be met, whether mass feeding or clothing distribution are included, and the methods of providing payments, medical care, and other remedial care.
  - (4) Specify which of the following services will be provided: Information, referral, counseling, securing family shelter, child care, legal services, and any other services that meet needs attributable to the emergency or unusual crisis situations.
  - (5) Provide that emergency assistance will be given forthwith.
- (b) Federal financial participation. Beginning with the effective date of approval of the amendment to the State plan for AFDC which provides for emergency assistance to needy families with children pursuant to section 406(e) of the Act:
- (1) Federal financial participation is available for emergency assistance to or on behalf of a needy child under the age of 21 and any other member of the household in which he is living if:
    - (i) Such child is (or, within 6 months prior to the month in which such assistance is requested, has been) living with any of the relatives specified in section 406(a)(1) of the Act in a place of residence maintained by one or more of such relatives as his or their own home,
    - (ii) Such child is without resources immediately accessible to meet his needs,
    - (iii) The emergency assistance is necessary to avoid destitution of such child or to provide living arrangements for him in a home, and

- (iv) His destitution or need for living arrangements did not arise because he or such relative refused without good cause to accept employment or training for employment.
- (2) The rate of Federal financial participation in expenditures during a quarter as emergency assistance in accordance with the provisions of an approved State plan is 50 percent of the total amount of such expenditures which are (i) in the form of money payments, payments in kind, or such other payments as the State agency specifies, including loans and vendor payments, or medical or remedial care recognized under State law, with respect to or on behalf of individuals described in paragraph (b)(1) of this section; (ii) for the following services provided to individuals described in paragraph (b)(1) of this section, directly by staff of the agency, or by purchase from other sources: Information, referral, counseling, securing family shelter, child care, legal services, and any other services that meet needs attributable to the emergency or unusual crisis situations.
- (3) Federal matching is available only for emergency assistance which the State authorizes during one period of 30 consecutive days in any 12 consecutive months, including payments which are to meet needs which arose before such 30-day period or are for such needs as rent which extend beyond the 30-day period. Another condition for Federal participation is that the State has a reasonable method of determining the value of goods in kind or services provided for emergency assistance.

1340.15 (Continued)

REGULAR  
NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on  
reverse)Original  
For use by Secretary of State only

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (If any)  
RDB#1293-52OAL FILE  
NUMBERSNOTICE FILE NUMBER  
Z94-0222-04

REGULATORY ACTION NUMBER

94-0889-043

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

SEP 19 1994

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

SEP 19 1994

At 3:48 O'clock P.M.  
TONY MILLER, Acting Secretary of StateBy Robert Cornick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Petrin v. Carlson		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-#9-2	PUBLICATION DATE 3-4-94	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT
MPP	
SECTIONS AFFECTED	AMEND Section 44-207.443(a)
	REPEAL

## 2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) November 1, 1994

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Chief, Regulations Development

TELEPHONE NUMBER  
657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

DATE

AUG 2 1994

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 44-207.443 to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

.4 Treatment of Lump Sum Income (Continued)

.44 (Continued)

.443 (Continued)

- (a) Acceptable situations where the lump sum becomes unavailable shall include, but are not limited to: theft or loss of the lump sum income; spouse leaves the home with lump sum income; ~~or~~ the lump sum is spent on expenses to meet needs due to sudden and unusual circumstances of a life threatening nature/; or all or part of the lump sum is spent on reasonable and necessary funeral expenses for an assistance unit member or any person who is identified in the degree of relatedness provisions specified in Section 82-808.11 and who resided with the assistance unit within ninety days of his/her death.
- (b) (Continued)

Authority Cited: Sections 10553, 10554, 11450, and 11453, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11017, 11157, 11255, and 11280, Welfare and Institutions Code; 45 CFR 233.20(a)(2)(xiii) and (3)(ii)(F), (vi)(B), and (xiv); and Darces v. Woods, 35 Cal. 3d 871; Petrin v. Carlson Court Order, Case No. 638381, May 12, 1993; Rutan v. McMahon, Case No. 612542-L (Alameda Superior Court) February 19, 1988; Letter from Department of Health and Human Services (DHSS), December 5, 1990; Johnson v. Carlson Stipulated Judgement; Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.



## NOTICE PUBLICATION REGULATIONS SUBMISSION

STD. 400 (REV. 2/91)

(See instructions on reverse)

Original  
For use by Secretary of State only

## AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (If any)

RDB#1293-51

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

94-0816-DIC 94-0415-04E

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

SEP 19 1994

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

SEP 19 1994

At 3:48 O'clock P.M.  
TONY MILLER, Acting Secretary of State.  
By Roberta Conner  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Child Support - Wage Withholding		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON				TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER 94-111-2		PUBLICATION DATE 4-29-94	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND 12-107.32, 12-224.332 and 12-226.251
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Chief, Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

DATE

AUG 15 1994

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, DIRECTOR



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN  
REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend MPP Section 12-107.32 to read:

12-107 TIME STANDARDS - ENFORCEMENT OF SUPPORT ORDERS (Continued)

12-107

.3 The district attorney shall serve a wage assignment on the absent parent's employer within 15 calendar days of:

- .31 When the support order was entered, unless the wage assignment has been stayed or an alternative arrangement exists; or
- .32 When the absent parent changes employment, ~~when~~ and the new employer's address is known; or
- .33 When the employer's address is located, in those cases in which the employer's address had been unknown.

Authority Cited: Sections 10553, 10554 and 11475, Welfare and Institutions Code.

Reference: Section 11479.5, Welfare and Institutions Code; and 45 CFR 303.6, 303.72, 303.100, (b), (f)(2), and 303.102.

Amend MPP Section 12-224.332 to read:

12-224 PROGRAM PERFORMANCE STANDARDS - ENFORCEMENT (Continued)

12-224

.3 (Continued)

.32 (Continued)

.328 A statement directing the employer to do the following:

- (a) Implement the withholding no later than the first pay period which occurs after 14 calendar days following the date the notice was mailed.
- (b) Forward amount withheld to the district attorney within 10 calendar days of the date the absent parent is paid.
- (c) Notify the district attorney of the date the earnings were withheld.

.329 (Continued)

.33 If the absent parent changes employment, the district attorney shall serve the wage assignment on the absent parent's new employer, if known, within 15 calendar days.

.331 If the new employer's address is not known, the district attorney shall serve the wage assignment within 15 calendar days of locating the employer's address.

.332 The district attorney shall notify the new employer that the wage assignment is binding until further notice.

.34 The district attorney shall maintain and follow procedures that ensure that the noncustodial parent is refunded the amount improperly withheld within 15 calendar days of discovering the error.

Authority Cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code.

Reference: Sections 11479.5 and 15200.8, Welfare and Institutions Code; 45 CFR 302.31(a)(2)/ 1 45 CFR 303.6, and 303.100(a), (a)(8), (b), (d), (f)(1)(ii) and (iv); and Sections 4390.3, .10, and .17, California Civil Code.

Amend MPP Section 12-226.251 to read:

12-226 PROGRAM PERFORMANCE STANDARDS - INTERSTATE CASES (Continued)

12-226

.2 (Continued)

.25 Notify the IV-D Agency of the responding state to implement interstate wage withholding within 20 calendar days of determining that wage withholding is required.

.251 The notification to implement interstate withholding shall include ~~any~~ all information necessary to carry out the withholding.

.252 If the responding state requests additional information needed to implement the withholding, the district attorney shall provide that information within 30 days of receiving the request.

Authority Cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code.

Reference: Sections 11479.5 and 15200.8, Welfare and Institutions Code; 45 CFR 303.7(b)(1) through (5), (c)(4)(i) through (iii), (c)(5), (c)(6), (c)(7)(i) through (iv), (c)(8), (c)(9), (c)(10), and (d)(2); and 45 CFR 303.100(h)(3).

**REGULAR**  
**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91)

(See instructions on  
reverse)*Original*  
For use by Secretary of State only

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

0494-09

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

Z94-0524-03

REGULATORY ACTION NUMBER

94-0823-045

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

SEP 22 1994

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

SEP 22 1994

At 3:16 O'clock P.M.  
TONY MILLER, Acting Secretary of StateBy *Robert A. Cornick*  
Deputy Secretary of State**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE <i>ANNUAL ADJUSTMENT</i> <b>FOOD STAMP STANDARD UTILITY ALLOWANCE</b>		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER <i>94-0823-045</i>	PUBLICATION DATE <i>6-3-94</i>

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) Manual of Policies and Procedures (MPP) <b>SECTIONS AFFECTED</b>	ADOPT Section 63-015 AMEND Section 63-502 REPEAL
---	--

## 2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) *October 1, 1994*

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

Frank R. Vitulli, Chief, Regulations Development

TELEPHONE NUMBER

657-2586

7.

**I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Blaine Anderson*

TYPED NAME AND TITLE OF SIGNATORY

DATE

8/23/94

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 63-015 to read:

63-015 IMPLEMENTATION OF AMENDED ANNUAL STANDARD UTILITY  
ALLOWANCE (SUA) ADJUSTMENT EFFECTIVE DATE

63-015

Effective October 1, 1994 and each October 1 thereafter, the CWDs shall implement the revised Food Stamp Standard Utility Allowance annual adjustment for providing continued SUA allowances as specified by changes to Section 63-502.353(d).

Authority Cited: Sections 18900 and 18901, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; 7 CFR 273.9(d)(6), (7) and (8); and the Food Stamp Act of 1977, Section 5 (e) [7 U.S.C., Section 2014(e)].

Amend Section 63-502.3 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)

63-502

.3 Income Deductions

.353 Standard Utility Allowance (SUA)

(a) (Continued)

(b) (Continued)

(c) (Continued)

(d) The SUA for food stamp households shall be adjusted annually by CSDSS to reflect increases or decreases in the cost-of-living occurring after June, 1982. The first such adjustment becomes effective January 1, 1983 and subsequent adjustments shall take effect each January 1 ~~thereafter~~ through September 30, 1994. The SUA annual adjustments shall take effect each October 1, beginning October 1, 1994.

(1) The cost-of-living shall be calculated by CSDSS based on the weighted average of the Fuel and Other Utilities Index of the Consumer Price Index for All Urban Consumers (CPI- U), when published by the U.S. Department of Labor, Bureau of Labor Statistics for Los Angeles-Long Beach-Anaheim and San Francisco-Oakland. The weighting factor for each area is as used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(2) The percentage change to be determined shall be for a 12- month period ending with ~~July~~ March of the ~~preceding~~ same year for which the cost-of-living adjustment will take effect. The SUA in effect during the month of ~~January~~ October preceding the calendar year in which the adjustment is to take place will be increased/decreased by the 12- month percentage change, with the resulting SUA to be rounded to the nearest dollar. The result shall constitute the new SUA (see Handbook Section 63-1101.26). (Continued)



Authority Cited: Sections 10553, 10554, 11209, 18900, 18901 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Public Law (P.L.) 99-198, Section 1509(b); P.L. 101-201; P.L. 101-624; P.L. 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 100-77; P.L. 102-237, P.L. 102-325; 7 CFR 271.2; 7 CFR 273.7(f); 7 CFR 273.9; 7 CFR 273.9(b)(1) and (c), 7 CFR 273.9(c)(1) and (i), (iii), (iv), and (iv)(B), and (c)(3); 7 CFR 273.9(c)(5); 7 CFR 273.9(c)(5)(i)(A); 7 CFR 273.9(c)(5)(i)(C), (F) and (G) and (ii)(A); 7 CFR 273.9(c)(10); 7 CFR 273.9(c)(15); 7 CFR 273.9(d)(3)(vii); 7 CFR 273.9(d)(1) through (8); 7 CFR 273.11(d)(1), (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal Feb. 1, 1990) F. Supp. [Dock. No. CV-89-0768]); 7 CFR 273.21(j)(1)(vii)(A); P.L. 101-508, Section 11111(b); P.L. 103-66, Section 5(c), (d) and (e) and Section 8(a); 7 U.S.C. Sections 2014(c), (d), ~~and~~ (d)(3)(B), and (e); 7 U.S.C. Section 2015(e); 7 U.S.C. 2017(a); 20 U.S.C. Section 1087 uu.; 20 U.S.C. Section 2466d.; 26 U.S.C. Section 32(j)(5); U.S.D.A. Food and Nutrition Service Office, Western Region, Administrative Notice 88-40, Indexed Policy Memo 88-10, dated April 20, 1988; U.S.D.A. Food and Nutrition Service Office, Western Region, Administrative Notice 91-24, dated January 24, 1991; and U.S.D.A. Food and Nutrition Service Administrative Notice 91-30; Waiver Letter WFS-100: FS-10-6-CA, dated October 2, 1990, United States Department of Agriculture, Food and Nutrition Service; Federal Register, Volume 51, No. 163 (pgs. 30046 and 30047); Food Stamp Question and Answer Distribution System, #502.2-7 and U.S.D.A. Food and Nutrition Service Office, Western Region, Administrative Notices 92-12 and 92-41 with Policy Memo 3-92-06.

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

Original  
For use by Secretary of State only

## AGENCY

CALIFORNIA STATE DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (If any)

RDB#0394-03

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

OCT 27 1994

Office of Administrative Law

FILED

In the office of the Secretary of State  
of the State of California

OCT 27 1994

At 4:08 P.M.  
TONY MILLER, Acting Secretary of StateBy Robert Cornick  
Deputy Secretary of State

NOTICE

REGULATIONS

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Food Stamp Offices - Hours of Operation		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-#1112	PUBLICATION DATE 4-29-94	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT 63-007
SECTIONS AFFECTED	AMEND 63-205
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Chief, Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

Eloise Anderson

SEP 14 1994

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, DIRECTOR

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

- .1 Sections 63-205.1 and 63-205.2, as amended, shall be effective June 1, 1994. These amendments supersede the revisions referenced in Section 63-033.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 18902, Welfare and Institutions Code, 7 CFR 272.4(g), Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. Civ. S-93-859, dated December 16, 1993.

.1 Hours of Operation

CWDs are responsible for determining the location and hours of operation of certification and issuance services available to Food Stamp applicants and recipients based on an assessment of their needs. To make this determination, CWDs shall conduct an annual review of the hours of operation of Food Stamp certification and issuance offices to ensure that the needs of recipients who work are adequately met. The results of these reviews shall be submitted to the California Department of Social Services to be retained for review by the federal Food and Nutrition Service.

.2 Level of Service

- .21 Basic certification services consist of distributing and accepting applications, interviewing applicants, and accepting notices of change in household circumstances.
- .22 A wide variety of issuance methods may be used, including mail issuance, to fulfill issuance service needs.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 18902, Welfare and Institutions Code, 7 CFR 272.4(g), Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. Civ. S-93-859, dated December 16, 1993.



**EMERGENCY**  
**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91)

(See instructions on  
reverse)Original  
For use by Secretary of State only

AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (If any)

RDB#0394-04

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

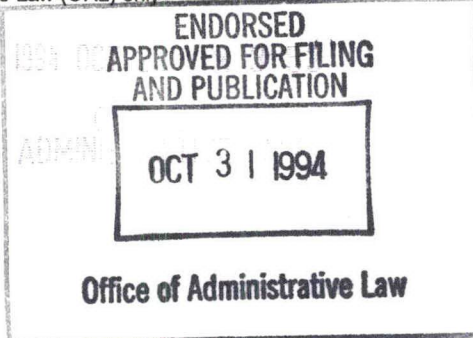
REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

94-1021-06E

For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

FILED  
In the office of the Secretary of State  
of the State of California

OCT 31 1994

At 3:50 P.M.  
TONY MILLER, Acting Secretary of State  
Colbert Cornick  
Deputy Secretary of State**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Adoption Assistance Program Regulations		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) CCR 22/MPP	ADOPT (see attached)
SECTIONS AFFECTED	AMEND (see attached)
	REPEAL (see attached)

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☐ Effective on filing with Secretary of State
 ☒ Effective other (Specify) 11-1-94

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Chief, Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, DIRECTOR

DATE

OCT 21 1994

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any:

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Page 2  
OAL 4  
RDB#0394-04

Adopt: *Tit. 22* Sections 35325 (New), 35333 (New), 35344 and <sup>*mpp*</sup>45-808.

Amend: *Tit. 22* Sections 35000, 35001, 35009, 35013, 35047, 35051, 35171, 35179, 35207, 35209, 35275, 35283, 35326, 35331, 35337, 35339, 35341, 35343, 35345, 35347, <sup>*mpp*</sup>35351, 35352, 35352.1, 35352.2, 35352.3, <sup>*mpp*</sup>45-801, <sup>*mpp*</sup>45-802, <sup>*mpp*</sup>45-803, <sup>*mpp*</sup>45-804, <sup>*mpp*</sup>45-805, <sup>*mpp*</sup>45-806 and <sup>*mpp*</sup>45-807.

Repeal: *Tit. 22* Existing Sections 35333 and 35335.

*per agency  
DME  
10-31-94*



Amend Section 35000 to read:

35000 DEFINITIONS

35000

- (a) (1) "AAP Eligible Child" means a child who meets the eligibility criteria defined in Welfare and Institutions Code Section 16120.
- ~~(12)~~ (Continued)
- ~~(13)~~ (Continued)
- ~~(14)~~ "Adoption Assistance Agreement" means a written document signed by the agency and the adoptive parent which provides that an adoption assistance payment may be made for the child and specifies the terms of the payment.
- (4) "Adoption Assistance Program (AAP)" means a program of financial and/or medical assistance to facilitate the adoption of special needs children as defined in section 35325(a) children who otherwise would remain in long-term foster care.
- (5) through (9) (Continued)
- (b) through (q) (Continued)
- (r) (1) (Continued)
- ~~(12)~~ (Continued)
- ~~(13)~~ (Continued)
- (4) "Responsible Public Agency" means the department or licensed public adoption agency responsible for determining Adoption Assistance Program eligibility and initial and subsequent payment amounts as specified in Section 35325(c).
- ~~(45)~~ (Continued)
- (s) (1) through (4) (Continued)
- (5) "Statewide Median Income" means the California median income as projected and adjusted for family size by the United States Department of Housing and Urban Development (HUD).
- (t) through (z) (Continued)

Authority Cited: Sections 10553, 10554, and 16118/47, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 222.26(b), 224.50(h), 224.70(b), 226.11, and 226.35(b), Civil Code.

Reference: Sections 10800, 16000, 16115, 16118, 16119, 16120, 16120.1 and 16121, Welfare and Institutions Code; Sections 25, 62, 211, 220.20(a), 220.20(b), 220.20(c), 220.20(d), 220.20(e), 220.20(f), 220.20(g), 220.20(h), 220.20(i), 220.20(j), 220.20(k), 220.20(l), 220.20(m), 220.20(n), 220.20(o), 220.20(p), 220.20(q), 222.26(a), 224.70(a), 226.35(a), 229.30, 232, 239, 7001, 7002, 7003, 7004, and 7017, Civil Code; Section 1502, Health and Safety Code; Section 13290, Government Code; 8 USC 1101(b)(1)(F); 25 USC 1901, 1903(2), (3), (4), (5), (6), (8), (9), (11), and (12); 42 USC 673 and 675; Section 11105(a)(2), Penal Code; and 28 CFR Section 16.31; and 45 CFR 1356.41(i).

Amend Section 35001 to read:

35001        DEFINITIONS - FORMS

35001

- (a) (1)    "AAP 1 (Bi)" (7/94) means the form entitled, "Request for Adoption Assistance."
- (2)    "AAP 2" (9/94) means the form entitled, "Payment Instructions - Adoption Assistance Program."
- (3)    "AAP 3" (7/94) means the form entitled, "Recertification Information - Adoption Assistance Program."
- (4)    "AAP 4" (9/94) means the form entitled, "Eligibility Certification - Adoption Assistance Program."
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(~~43~~7) (Continued)

(~~48~~) "AD 4320 Bi" (7/94) means the form entitled, "Adoption Assistance Agreement."

(b) through (e) Reserved

(f) (1) through (2) Reserved

(3) "(FC 3)" (2/92) means the form entitled, "Determination of Federal AFDC-FC Eligibility."

(4) through (7) Reserved

(8) "FC 8" (6/94) means the form entitled, "Federal Eligibility Certification for Adoption Assistance Program."

(9) "FC 9" (6/94) means the form entitled, "Federal Eligibility Information for Adoption Assistance Program."

(10) "FC 10" (12/88) means the form entitled, "Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program."

HANDBOOK BEGINS HERE

AD, AAP, and FC forms are available through the Department's Forms Warehouse at the following address:

California Department of Social Services Warehouse  
Publications Unit  
6150 27th Street - P.O. Box 22429  
Sacramento, CA 95822-3799

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 222.10, 222.26, 224.62 and 224.70, Civil Code; Sections 16118, and 16120.05, Welfare and Institutions Code.

Amend the title and Section 35009(a)(1) to read:

35009	DISSEMINATION OF INFORMATION REGARDING <del>SPECIAL NEEDS</del> <u>AAP ELIGIBLE</u> CHILDREN, AAP, AND REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES	35009
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(a) The agency shall inform the public regarding:

- (1) The need for adoptive parents for ~~special needs~~ AAP eligible children.  
(Continued)

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Sections ~~222.35/ 222.36/ 222.37/ and 222.38/~~ Civil 8708, 8709, 8710, and 8711 Family Code; Sections 16115.5 ~~and~~ 16119/ and 16120, Welfare and Institutions Code; and 45 CFR 1356.40 and 45 CFR 1356.41(e)(1).

Amend Section 35013 to read:

35013      PROVISION OF INFORMATION REGARDING THE  
ADOPTION OF ~~SPECIAL NEEDS~~ AAP ELIGIBLE CHILDREN

35013

- (a) The agency shall inform applicants regarding the availability of:
- (1) ~~Special needs~~ AAP eligible children in need of adoptive parents;
  - (2) Supportive services to assist the adoptive parent in meeting the ~~special needs~~ AAP eligible child's needs;
  - (3) AAP payments for ~~special needs~~ AAP eligible children;
    - (A) The agency shall inform the applicant for the adoption of the ~~special needs~~ AAP eligible child that the ability to adopt is not limited by the applicant's income or lack of income and that there is no test of the applicant's financial means as a prerequisite for adoption.
    - (B) The agency shall inform the applicant for the adoption of the AAP eligible child that availability of AAP support for group home care and residential treatment is limited.
  - (4) Medi-Cal for ~~special needs~~ AAP eligible children; and
  - (5) Reimbursement for nonrecurring adoption expenses incurred in the adoption of ~~a special needs~~ an AAP eligible child.
    - (A) The agency shall inform the applicant for the adoption of ~~a special needs~~ an AAP eligible child that the ability to receive this reimbursement is not limited by the applicant's income and that there is no test of the applicant's financial means as a prerequisite for this reimbursement.

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 16115.5, 16119, 16120, and 16120.1~~(b)~~, Welfare and Institutions Code; 45 CFR 1356.40; and 45 CFR 1356.41(e)(1).

Amend Section 35047 to read:

35047        ADDITIONAL REQUIREMENTS FOR ADOPTIONS CASE  
              RECORDS

35047

- (a) In addition to the requirements of Title 22, California Code of Regulations, Sections 89179 and 89182, adoption case records shall contain the following, as appropriate:
- (1) All documentation pertaining to freeing the child for adoption as required by Subchapter 2, Article 5.
  - (2) All documentation pertaining to the translation and/or reading and/or correction of forms including the recordings of any reading of consent and relinquishment forms as required by Subchapter 2, Article 1.
  - (3) Copies of the written assessment of the child and applicant as required by Subchapter 5, Article 6.
  - (4) A copy of the notice to the prospective adoptive parents of the agency's intent to remove the child from an adoptive placement.
  - (5) A copy of the written notice to all parties to a grievance review hearing.
  - (6) A copy of the agency director's decision regarding the grievance review hearing as required by Section 35239(a)(1).
  - (7) Copies of all requests for disclosure of information from the adoption case record including waivers of the right to confidentiality of adoption case records.
  - (8) All documentation of eligibility for the Adoption Assistance Program (AAP) as required by Subchapter 7, Article 12.
  - (9) A copy of the signed Adoption Assistance Agreement.
  - (10) (Continued)
    - (A) Form AD 90 "Supporting Information for Issuance of Department of Social Services' Waiver and Acknowledgment".
    - (B) Form AD 551A "Notification of Action in Lieu of Relinquishment".
    - (C) All forms signed by the relinquishing parent which pertain to the relinquishment of the child for adoption including Statements of Understanding.
    - (D) Form AD 588 "Denial of Paternity".
    - (E) Form AD 590 "Waiver of Further Notice of Adoption Proceedings".
    - (F) Form ~~ad~~ AD 558 "Notice of Placement".



- (G) Documentation of action taken in another state to free the child.
  - (H) Form AD ~~908~~ 4333 "Acknowledgment of the Filing of Adoption Relinquishments - Notice of Actions in Lieu of Relinquishment -Waiver of Report of State Department of Social Services".
  - (I) Form AD 4311 "Information on American Indian Child" and copies of any responses from Bureau of Indian Affairs (BIA) or the child's tribe.
  - (J) Forms AD 165 and 166 "Consent to Adoption".
  - (K) Form ICPC 100A, if applicable.
  - (L) Form ICPC 100B, if applicable.
- (11) Copies of requests for medical background information under ~~Family Code Sections 222.28, 224.70, or 228.35~~ 8706, 8817, or 8909.

HANDBOOK BEGINS HERE

- (A) Family Code Section 8706 is located at Section 35209(a)(1).
- (B) Family Code Section 8817 is located at Section 35093(a)(2)(A)1..
- (C) Family Code Section 8909 is located at Section 35275(a)(1).

HANDBOOK ENDS HERE

- (12) Copies of medical background information transmitted to an adoptee and adoptive parent at time of placement under ~~Family Code Sections 222.28(a), 224.70(a), or 228.35(a) and 229.30~~ 8706, 8817, 8909, and 9202.

HANDBOOK BEGINS HERE

- (A) Family Code Section 8706 is located at Section 35209(a)(1).
- (B) Family Code Section 8817 is located at Section 35093(a)(2)(A)1..
- (C) Family Code Section 8909 is located at Section 35275(a)(1).
- (D) Family Code Section 9202 is located at Section 35051(a)(1).

HANDBOOK ENDS HERE

- (13) Copies of requests for identifying information under ~~Family Code Section 229.40(a)~~ 9203.

HANDBOOK BEGINS HERE

- (A) The pertinent part of Family Code Section 9203 is located at Section 35053(b)(1).

HANDBOOK ENDS HERE

- (14) Copies of identifying information provided under ~~01711~~ Family Code Section 229/40 9203.
- (15) Copies of waivers of the right to confidentiality of adoption case records under ~~01711~~ Family Code Section 229/30 9204.

HANDBOOK BEGINS HERE

- (A) The pertinent part of Family Code Section 9204 is located at Section 35049(b) (3) (A).

HANDBOOK ENDS HERE

- (16) (Continued)
- (17) Documentation of any attempt to place the child in accordance with the ICWA.
- (18) (Continued)
- (19) A copy of the Interstate Compact on the Placement of Children (ICPC) acknowledgment/waiver.
- (20) A copy of the receipt signed by the prospective adoptive parent acknowledging receipt of initial and updated medical background information on the child and birth parents.
- (21) Copies of letters of reference regarding the suitability of applicants to be adoptive parents.
- (A) (Continued)
- (22) The fingerprint card(s) (BID-7) returned from the Department of Justice (DOJ), full state criminal record, if any, and the FBI criminal record, if any.
- (23) Justification for any deferment, waiver, or reduction in the DOJ fee charged for checking or obtaining the criminal record of the applicant or petitioner.

HANDBOOK BEGINS HERE

- (A) ~~01711~~ Family Code Sections 222/40/ 224/49/ and 226/30 8712, 8810, and 8908 provide that the adoption agency or the Department may defer, waive, or reduce the fee when its payment would cause economic hardship to the adoptive parents detrimental to the welfare of the adopted child, when the child has been in foster care with adoptive parents for at least one year, or if necessary for the placement of a special needs child.

HANDBOOK ENDS HERE

- (24) Documentation indicating that a diligent search was made to meet the requirements of ~~Civil~~ Family Code Section ~~222/37~~ 8710(b).

HANDBOOK BEGINS HERE

- (A) ~~Civil Code~~ Section 222/37 Family Code Section 8710(b) reads as follows:

"(b) Every public ~~of~~ and private adoption agency shall maintain records for the placement of each child to show that a diligent search has been conducted for families meeting the criteria of Section ~~222/35~~ 8708, and in accordance with diligent search rules which shall be adopted by the department. In conduction a diligent search, each agency shall use all appropriate resources, as necessary, in a directed effort to recruit a family meeting the placement preference criteria through (~~1~~) the use of all appropriate intra-agency and interagency, state, regional, and national exchanges and listing books, (~~2~~) child-specific recruitment in electronic and printed media coverate, and (~~3~~) the use of agency contacts with parent groups to advocate for specific waiting children."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8710(a), Family Code.

Reference: Sections 1501, 1502, 1503, and 1508, Health and Safety Code; Sections 89179 and 89182, Title 22, California Code of Regulations; and Sections ~~222/37/ 222/40/ 224/49/ and 226/30/~~ Civil 8706, 8710, 8712, 8811, 8817, 8908, 8909, 9202, 9203, and 9204, Family Code.

Amend Section 35051 to read:

35051 PROVIDING A MEDICAL REPORT UPON REQUEST

35051

- (a) The agency shall provide a photocopy of the adoptee's medical report required by ~~Civil~~ Family Code Section ~~229/30~~ 9202 and all documents related to the medical report upon the written request of an adoptee who has attained the age of 18, an adoptee under the age of 18 who presents a certified copy of his or her marriage certificate, or an adoptive parent of an adoptee under the age of 18.

HANDBOOK BEGINS HERE

- (1) ~~Civil~~ Family Code Section ~~229/30~~ 9202 reads as follows:

"(a) Notwithstanding any other ~~provision~~ of law, the department or the licensed adoption agency ~~which~~ that made the a medical report required by Sections ~~222/26/ 224/70/ or 226/33~~ 8706, 8817, or 8909 shall ~~upon the request of a~~ provide a copy of the medical report, in the manner the department prescribes by regulation, to any of the following persons upon the person's request:

"(1) A person who has been adopted pursuant to this ~~chapter~~ part and who has attained the age of 18 years or who presents a certified copy of his or her the person's marriage certificate, / or upon the request of the

"(2) The adoptive parent of a person under the age of 18 years who has been adopted pursuant to this ~~chapter/~~ part. ~~provide that person with a copy of the medical report required by Section 222/26/ 224/70/ or 226/33 in the manner that the department shall prescribe by regulation/~~

"(b) A person who is denied access to a medical report pursuant to the regulations adopted pursuant to this section may petition the ~~superior~~ court for review of the reasonableness of the department's or licensed adoption agency's decision.

"(c) The names and addresses of any persons contained in the report shall be removed ~~therefrom~~ unless the person requesting the report has previously received the information pursuant to subdivision (a) of Section ~~229/40~~ 9203."

HANDBOOK ENDS HERE

- (2) The agency shall delete from the medical report and photocopies of the relevant documents the names and addresses of all individuals, including the adoptee and the source, prior to releasing photocopies of the report, unless the person requesting the report has previously received the information pursuant to ~~Civil~~ Family Code Section ~~229/40/AY~~ 9203.

HANDBOOK BEGINS HERE

(A) (Continued)

(B) The content of ~~§111~~ Family Code Section 229.40(a) 9203, in part, is located at Section 35053(b)(1).

HANDBOOK ENDS HERE

(3) (Continued)

(b) (Continued)

Authority Cited: Sections 10553, 10554, and 10850(d), Welfare and Institutions Code; and Section 9202(a), Family Code.

Reference: Sections ~~229.40~~ §111 9202 and 9203, Family Code; and 25 U.S.C. 1901, et seq.

Amend Section 35171 to read:

35171        CONTENT OF WRITTEN ASSESSMENT OF THE CHILD

35171

(a)    (Reserved)

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(a)    (Continued)

HANDBOOK ENDS HERE

(b)    The agency shall assess each child accepted for adoption services. The assessment shall be in writing and shall include but not be limited to:

(1) through (5) (Continued)

(6)    Designation of the child as ~~special needs~~ AAP eligible, when applicable, and the reasons for such a designation (Continued)

Authority Cited:    Sections 10553 and 10554, Welfare and Institutions Code Section 1530, Health and Safety Code; and Section ~~222/26/27/~~ 222/26/27/ Civil 8608, Family Code.

Reference:        Sections ~~222/26/~~ 222/26/ ~~222/73/~~ 222/73/ ~~and 228/10/~~ Civil 8608, 8706, 8715, and 9100, Family Code; and 25 U.S.C. 1901 et seq.

Amend Section 35179 to read:

35179 INFORMATION ON AAP AND FOSTER CARE BENEFITS

35179

(a) (Continued)

HANDBOOK BEGINS HERE

- (1) Welfare and Institutions Code Section 16119 states, in pertinent part:

"At the time application for adoption of a ~~special needs child~~ child who is potentially eligible for Adoption Assistance Program benefits is made, the department or the licensed adoption agency, whichever is appropriate, shall provide the prospective adoptive family with information, in writing, on the availability of Adoption Assistance Program benefits, with an explanation of the difference between these benefits and foster care payments."

HANDBOOK ENDS HERE

- (2) The following information shall be included in this explanation:

(A) Adoption assistance, including financial assistance and Medi-Cal benefits, is available to remove economic barriers preventing families who adopt from adopting children whose special needs prevent them from being adopted without assistance who otherwise would remain in long-term foster care.

- (B) There are significant differences between adoption assistance and foster care as shown in the following chart:

Foster Care

Payments based on child's age and, in some cases, disability.

Family resources and circumstances not considered in determining payment amount.

Adoption Assistance

Payment based on child's needs and family's circumstances.

The maximum payment is the state-approved foster care payment the child would have received if not adopted.

Family resources and circumstances are considered in determining payment amount.

Health care provided  
by Medi-Cal.

Child eligible for  
Medi-Cal although  
family's health  
insurance must be  
used first.

*When the foster care  
provider receives  
AFDC/FG/W/ the  
foster care  
payments will not  
be considered  
income to the family.*

*When the special  
needs child's  
adoptive parents  
receive AFDC/FG/W/  
the AAP benefits  
will be considered  
income to the family.*

If the child would  
require group home  
or residential treat-  
ment placement, it  
would be available  
for as long as required.

If the child would  
require group home  
or residential treatment  
placement, it would be  
available only for a  
limited period of time  
and only if the goal  
is reunification of the  
child with the adoptive  
family.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 16119 and 16121, Welfare and Institutions Code.



Amend Section 35207 to read:

35207 ADOPTIVE PLACEMENT AGREEMENT

35207

(a) (Reserved)

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

(1) (Continued)

(A) The rights and responsibilities of the agency and the prospective adoptive parents.

1. The child's legal status, including court dependency and any terms and/or conditions of the adoptive placement of a child not yet freed for adoption.

(B) The agency's responsibility to retain custody of the child and to supervise the adoptive placement until the granting of the final decree of adoption in accordance with ~~Civil~~ Family Code Section ~~222/20~~ 8704 and Welfare and Institutions Code Section 366.26(i).

HANDBOOK BEGINS HERE

1. ~~Civil~~ Family Code Section ~~222/20~~ 8704 reads, in pertinent part, as follows:

"(a) The department or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights ~~shall be~~ is responsible for the care of the child, and ~~shall be~~ is entitled to the exclusive custody and control of the child until an order of adoption ~~has been~~ is granted. Any placement for temporary care, or for adoption made by the department or a licensed adoption agency may be terminated ~~at~~ in its discretion at any time ~~prior to~~ before the granting of an order of adoption. In the event of termination of any placement for temporary care or for adoption, the child shall be returned promptly to the physical custody of the department or licensed adoption agency.

"(b) No petition may be filed to adopt a child relinquished to the department or a licensed adoption agency or a child declared free from the custody and control of either or both birth ~~parent or both~~ parents and referred to the department or a licensed adoption agency

for adoptive placement, except by the prospective adoptive parents with whom the child has been placed for adoption by the department or licensed adoption agency. After the adoption petition ~~for adoption~~ has been filed, the department or licensed adoption agency may remove the child from the prospective adoptive parents only with the approval of the court, upon motion by the department or a licensed adoption agency after notice to the prospective adoptive parents, supported by an affidavit or affidavits stating the grounds on which removal is sought. If the department or a licensed adoption agency refuses to consent to the adoption of a child by the person or persons with whom the department or licensed adoption agency placed the child for adoption, the ~~supervisor~~ court may nevertheless order ~~decide~~ the adoption if it finds that the refusal to consent is not in the child's best interest ~~of the child.~~"

2. (Continued)

HANDBOOK ENDS HERE

- (C) The agency's responsibility to provide the prospective adoptive parents with a report on the child's medical background.
- (D) The availability of AAP ~~for special needs~~ to remove economic barriers to the placement of certain children who otherwise would remain in long-term foster care.
- (E) The existence of or due to family history, the potential for any physical, mental, emotional, or medical handicap or condition of the child which may manifest itself after completion of the adoption.
- (F) The availability of California Children's Services and the fact that assistance under this program will terminate if the adoptive family moves out of California and that the adoptive family may be eligible for a similar program in the other state.
- (G) The agency's grievance review procedure.
- (H) The prospective adoptive parent's responsibility to place the child under the care of a licensed physician for the routine health care of the child.
- (I) The prospective adoptive parent's responsibility to inform the agency of any serious injury to or illness of the child and to obtain prior written consent for all nonemergency surgical and medical treatment of the child.
- (J) The prospective adoptive parent's responsibility to inform the agency regarding any changes in the composition of the adoptive family or the family's place of residence.

- (K) The agency's authority to terminate the adoptive placement and to remove the child from the home of the prospective adoptive parents at the agency's discretion unless a petition for adoption has been filed.
- (L) The agency's agreement to give seven days written notice to the prospective adoptive parents of its intention to terminate the adoptive placement and remove the child unless the agency believes the child to be in imminent danger in which case no prior notice shall be required.
- (M) The prospective adoptive parent's right to terminate the adoptive placement and return the child to the agency at any time prior to the granting of a final decree of adoption.
- (N) The provisions of Civil Family Code Section 222.50 8713 and Penal Code Section 280 regarding concealment of a child.

HANDBOOK BEGINS HERE

1. Civil Family Code Section 222.50 8713 reads as follows:

"(a) In no event/ ~~not for any period of time/ shall~~ may a child who has been ~~relinquished~~ freed for adoption be removed from the county in which the child was placed, by any person who has not petitioned to adopt the child, without first obtaining the written consent of the department or ~~the~~ licensed adoption agency responsible for the child.

"(b) During the pendency of an adoption proceeding/:

"(1) ~~The~~ child proposed to be adopted ~~shall~~ may not be concealed within the county in which the adoption proceeding is pending.

"(2) The child ~~shall~~ may not be removed from ~~that the~~ county/ in which the adoption proceeding is pending unless the petitioners or other interested persons first obtain permission for the removal from the court, after giving advance written notice of intent to obtain the court's permission to the department or ~~to the~~ licensed adoption agency responsible for the child. Upon proof of ~~the~~ giving of ~~the~~ notice, permission may be granted by the court if, within a period of 15 days ~~from and~~ after the date of ~~the~~ giving of ~~the~~ notice, no objections ~~have been~~ are filed with the court by the department or ~~the~~ licensed adoption agency responsible for the child. If the department or licensed adoption agency files objections ~~are filed within that period by the department or the licensed adoption agency/ within the 15-day period,~~ upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the

party or parties request permission for the removal reasonable notice of the hearing by certified mail, return receipt requested, to the address of each as shown in the records of the adoption proceeding. Upon a finding that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to ~~such~~ any limitations ~~as that~~ appears to be in the child's best interests of the child.

"(c) This section does not apply in any of the following situations:

"(1) ~~When~~ Where the child is absent for a period of not more than 30 days from the county in which the adoption proceeding is pending, ~~provided that unless~~ a notice of recommendation of denial of petition has ~~not~~ been personally served on the petitioners or the court has ~~not~~ issued an order prohibiting the ~~removal of the child~~ child's removal from the county pending consideration of any of the following:

"(A) The suitability of the petitioners.

"(B) The care provided the child.

"(C) The availability of the legally required agency consents to the adoption.

"(2) ~~When~~ Where the child has been returned to and remains in the custody and control of ~~his or her~~ the child's birth parent or parents.

"(3) ~~When~~ Where written consent for the removal of the child is obtained from the department or ~~the~~ licensed adoption agency responsible for the child.

"(d) A violation of this section ~~constitutes~~ is a violation of Section 280 of the Penal Code.

"(e) Neither this section nor Section 280 of the Penal Code ~~shall~~ may be construed to render lawful any act ~~which~~ that is unlawful under any other applicable ~~provision of~~ law."

2. (Continued)

HANDBOOK ENDS HERE

(O) The disbursement report required by ~~Civil~~ Family Code Section ~~221/30~~ 8610.

HANDBOOK BEGINS HERE

1. The provisions of ~~Civil~~ Family Code Section ~~221/30~~ 8610 are located at Section 35085(b) (4) (A).

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Sections ~~221/30/ 222/20/ and 222/30/ Civil~~ 8610, 8704, and 8713, Family Code; 25 U.S.C. 1901 et seq.; and Sections 16118 and 16119, Welfare and Institutions Code.

Amend Section 35209 to read:

35209 MEDICAL BACKGROUND REPORT ON CHILD

35209

- (a) Prior to or at the time of adoptive placement of the child, the agency shall give a written medical report to the prospective adoptive parents on the medical background of the child and the child's birth parents in accordance with ~~Chil~~ Family Code Section ~~222/26/4~~ 8706 and obtain a written statement from the prospective adoptive parents acknowledging receipt of the report.

HANDBOOK BEGINS HERE

- (1) ~~Chil~~ Family Code Section ~~222/26/4~~ 8706 reads as follows:

"(a) ~~No~~ An agency ~~shall~~ may not place a child for adoption unless a written medical report on the child's medical background/ and, if available, ~~so far as ascerttainable~~ the medical background of the child's biological parents so far as ascertainable, has been submitted to the prospective adoptive parents and they ~~prospective adoptive parents~~ have acknowledged in writing the receipt of ~~that~~ the report.

"(b) The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history and family life."

- (2) (Continued)

HANDBOOK ENDS HERE

- (3) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section ~~222/26/4~~ ~~Chil~~ 8608, Family Code.

Reference: Section ~~222/26/4~~ ~~Chil~~ 8706, Family Code.

Amend Section 35275 to read:

35275            REQUIREMENT FOR ASSESSMENT OF THE CHILD

35275

- (a) The agency shall make a written assessment of the child as required by Civil Family Code Section 226/33/AY 8909.

HANDBOOK BEGINS HERE

- (1) Civil Family Code Section 226/33/AY 8909(a) reads as follows:

"(a) ~~No~~ An agency ~~shall~~ may not place a child for adoption unless a written ~~medical~~ report on the child's medical background/ and, if available, ~~so far as ascerttainable/~~ the medical background of the child's biological parents, so far as ascertainable, has been submitted to the prospective adoptive parents and they ~~prospective adoptive parents~~ have acknowledged in writing the receipt of ~~such~~ the report//."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 226/11 ~~and~~ 226/33/AY Civil 8608 and 8901, Family Code.

Reference: Sections 226/10 ~~and~~ 226/33/ Civil 8608, 8900, and 8909, Family Code.

Amend Section 35283 to read:

35283           CONTENT OF ASSESSMENT

35283

(a) The assessment shall include:

(1) (Continued)

(A) through (D) (Continued)

(2) Identification of any ~~special~~ atypical needs of the child that exist currently or will likely exist in the future.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections ~~226/11/ Civil~~ 8608 and 8901, Family Code.

Reference: Sections ~~226/10 and 226/35/ Civil~~ 8608, 8901, and 8909, Family Code.



Adopt new Article 1 and new Section 35325 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 1 AAP Case Initiation

35325      REQUEST FOR ADOPTION ASSISTANCE

35325

- (a) The Adoption Assistance Program (AAP) removes barriers to the adoption of children who otherwise would remain in long-term foster care. The program provides necessary financial assistance to families who are willing and able to assume parental responsibility for children but are prevented from doing so by inadequate financial resources.
- (b) The agency shall provide any person who wants to apply for adoption assistance benefits with a Request for Adoption Assistance form (AAP 1).
  - (1) If the agency placing a child for adoption believes the child to be an AAP eligible child, the agency shall offer the family an AAP 1.
- (c) The public agency responsible for determining AAP eligibility and initial and subsequent payments shall be:
  - (1) The Department or the licensed county adoption agency responsible for the child or,
  - (2) If the child is the responsibility of a licensed private adoption agency, the Department or licensed county adoption agency providing agency adoption services in the county that would provide adoption assistance benefits on behalf of the child.
    - (A) The licensed private adoption agency shall submit the AAP 1 and supporting documentation, including, but not limited to, the assessment of the child required by Section 35171 and a description of efforts to locate a non-subsidy home for the child, as the Department or licensed county adoption agency finds necessary in the particular case.

HANDBOOK BEGINS HERE

- (d) The county responsible for providing AAP financial aid and for determining the child's Federal eligibility status is specified by Welfare and Institutions Code Section 16118(e).
  - (1) Welfare and Institutions Code Section 16118(e), in pertinent part, states:

"For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Welfare and Institutions Code Sections 16120 and 16120.1 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Welfare and Institutions Code Section 11450 under the Aid to Families with Dependent Children program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."

HANDBOOK ENDS HERE

- (2) Once established, the county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.
- (e) The responsible public agency shall determine whether the child meets the eligibility requirements as specified in Section 35326.
  - (1) If an AAP 1 is submitted on behalf of a relinquished child who is not under the supervision of a county welfare department as the subject of a legal guardianship or a juvenile court dependency, the agency shall ask that entity responsible for providing services to children who are dependents of the court in the county that would be responsible for providing AAP benefits for a written determination as to whether the child would or would not have been at risk of dependency if the child had not been relinquished for adoption.
  - (2) If the responsible public agency determines that the child is not eligible for AAP benefits, the agency shall send the county responsible for payment a completed Payment Instructions - Adoption Assistance Program form (AAP 2) indicating that AAP eligibility is denied and the specific reason(s), including relevant regulatory or statutory citations, for the denial.
  - (3) If the responsible public agency determines that the child is eligible for AAP benefits, the agency shall:
    - (A) Submit the Federal Eligibility Certification for Adoption Assistance Program form (FC 8) to the county responsible for payment.
      - 1. The child's name prior to adoption (birth name) shall be used on the FC 8.
      - 2. The child's adoptive name shall not be used on the FC 8.
    - (B) Apply for Supplemental Security Income (SSI) benefits on the child's behalf prior to the completion of an AD 4320 if:

1.     The FC 8 returned by the county responsible for payment indicates that the child is not eligible for the Federal AAP and;
  2.     The child appears potentially eligible for the SSI program.
- (C)     Determine the initial amount and duration of payment as specified in Section 35333.
1.     If another agency assessed the prospective adoptive family as specified in Sections 35183 through 35195 and/or a private adoption agency is responsible for the child, these agencies shall be consulted before the amount and duration of payment is determined.
- (D)     Complete an Adoption Assistance Agreement (AD 4320) as specified in Section 35337.
1.     The AD 4320 shall be signed by the responsible public agency and the adopting parent(s) prior to the granting of the final decree of adoption.
  2.     In adoptive placements which involve more than one agency, all agencies shall sign the initial AD 4320.
    - (i)     Subsequent amendments to the AD 4320 may be signed by the responsible public agency alone.
  3.     If AAP assistance is to be provided after the adoptive placement but prior to the final decree, the AD 4320 shall be signed prior to the granting of assistance.
  4.     The child's adoptive name shall be used on the AD 4320.
- (E)     Authorize payment as specified in Section 35341.

Authority Cited:     Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference:             Sections 16118, 16120, 16121, and 16121.5, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673 and 675.

Renumber Section 35325 to 35326, Article 1 to 2, and amend to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 1 2 AAP Eligibility Requirements

353256 AAP ELIGIBILITY

353256

- (a) In order for a child for whom the initial Adoption Assistance Agreement is signed on or after October 1, 1992, to be eligible for Adoption Assistance Program (AAP) benefits, the conditions specified at Welfare and Institutions Code Section 16120, as amended by Assembly Bill (AB) 930 (Chapter 1087, Statutes of 1993), and 45 CFR 1356.40(d) shall be met.

HANDBOOK BEGINS HERE

- (1) Welfare and Institutions Code Section 16120, ~~states~~ in pertinent part, states:

*Welfare and Institutions Code Section 16120/ Adoption Assistance Program benefits shall be provided only on behalf of special needs children for whom all of the following conditions are met/*

- (a) The department of licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits/ The adoption assistance agreement shall, at a minimum, specify the duration of assistance/ the responsibility of the adopting family for reporting changes in circumstances/ and the periodic recertification required for reevaluating the continuing needs of the family/*
- (b) The child is under 18 years of age/ or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance/*
- (c) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and have signed an adoption assistance agreement/*
- (d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent/*
- (e) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court/ or committed to the department pursuant to Section 224/37 or 226/66 of the Civil Code/*

"A child shall be eligible for Adoption Assistance Program benefits if all of the following conditions are met:

- (a) The child has at least one of the following characteristics that are barriers to his or her adoption:
  - (1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of 3 years older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.
  - (2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability pursuant to subdivision (a) of Section 4512 including those determined to require out-of-home nonmedical care as defined in Welfare and Institutions Code Section 11464.
- (b) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.
- (c) The child is the subject of an agency adoption as defined in Section 8506 of the Family Code and was any of the following:
  - (1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency,
  - (2) Relinquished for adoption to a licensed California private or public adoption agency, or the department, and would otherwise have been at risk of dependency as certified by the responsible public child welfare agency, or
  - (3) Committed to the department pursuant to Section 8805 or 8918 of the Family Code.
- (d) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.

- (e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.
- (f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.
- (g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits."

(2) Title 45 CFR 1356.40(d)(c) states:

~~"Title 45 CFR 1356.40(d)(c)~~ There must be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance payments."

- (A) This is not to imply that there is no consideration of the family's financial resources as set forth at Section 35333(a)(2)(A)(3) when determining the payment amount.

HANDBOOK ENDS HERE

- (b) Eligibility of a child for whom an initial Adoption Assistance Agreement was signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).

HANDBOOK BEGINS HERE

(1) Welfare and Institutions Code Section 16121.05(b) states:

- "(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Sections 16118, 16119, ~~and~~ 16120, and 16121.05, Welfare and Institutions Code; and 42 USC 671 and 673.

Amend Section 35331 to read:

35331        DOCUMENTATION OF CHILD'S ELIGIBILITY

35331

(a) The determination of the child's eligibility for adoption assistance shall be documented in the case record on the Eligibility Certification - Adoption Assistance Program form (AAP 4).

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16118 and 16120, Welfare and Institutions Code and 42 USC Sections 671 and 673.

Article 2 AAP Procedures

35333 DETERMINATION OF FEDERAL ELIGIBILITY/ PAYMENT AMOUNT  
AND DURATION OF PAYMENT

35333

(a) If the child is a special needs child and the adopting parents desire adoption assistance, the adopting parents shall be provided with a Request for Adoption Assistance form (AAP 1)/

(1) Upon receipt of the completed AAP 1, the agency shall submit the Federal Eligibility Certification for Adoption Assistance Program form (FC 8) to the county/

(A) The child's name prior to adoption (birth name) shall be used on the FC 8 which shall not contain the child's adoptive name/

(2) If the prospective adoptive parents complete the Request for Adoption Assistance form, the agency and the prospective adoptive parents shall, prior to the final decree of adoption and prior to completing an adoption assistance agreement, determine the needs of the special needs child, resources available to meet those needs, and the amount and probable duration of AAP benefits/

(A) Resources to be considered shall include/

1/ The prospective adoptive parent's financial resources and needs of the family/ The income of the prospective adoptive parents is a circumstance which shall be taken into account in determining the amount of payment/ However, the income of the prospective adoptive parents alone shall not be used to determine the amount of payment/ The needs of the child shall also be considered/

2/ Regional Centers for the developmentally disabled/

3/ California Children's Services/

4/ In-home Supportive Services/

5/ Other private or public resources which offer financial, medical, psychological, educational, or other assistance/

(B) The amount and duration of AAP benefits shall be tailored to the unique needs and resources of each family and special needs child/

1/ Payment amount shall meet the requirements of Welfare and Institutions Code Section 16121(a)/



HANDBOOK BEGINS HERE

- 11) Welfare and Institutions Code Section 16121(a) requires that payment amounts not exceed the amount that would be paid for foster care for the child if the adoptive placement were not to occur. However, the adoption assistance payment may include the state-approved specialized foster care increment or, if the child is in a group home, the state-approved group home rate when the child is or would have been eligible for these as a foster child.
  - 12) The limit for federal financial participation is the foster family home rate.
2. Adoption assistance meets the following three classes of needs:
- 11) Basic Needs: Equivalent to the care provided by the basic foster care rate for a foster child placed in a foster home.
  - 12) Special Circumstances Needs: Equivalent to the additional care and services provided a foster child by a specialized foster care increment and/or group home rates.
  - 13) Medical Care: Equivalent to the care provided a foster child by the Medical Program.
3. The following guidelines regarding the impact of family circumstances on the AAP grant may be useful in assisting the family and agency in their determination of the appropriate grant amount:
- 11) Families whose income is below the median will probably require ongoing assistance with basic needs. The level of this assistance will vary inversely with family income.
  - 12) Families are likely to require assistance with special circumstances needs for the duration of those needs.
  - 13) Families without access to ongoing health insurance for the adopted child which covers the adopted child's pre-existing conditions will require a minimum grant so that continuing medical coverage is assumed.

1144 If the family has to reduce its income level, if one of both parents must reduce their employment outside of the home, a larger grant will probably be required.

HANDBOOK ENDS HERE

1145 In a placement involving more than one agency, the agencies and the prospective adoptive parents shall determine the needs of the child and the resources available to meet those needs.

Authority Cited: Sections 10333 and 10118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 10118, 10120, 10121, and 10121.5, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673 and 675.

Adopt a new Article 3; and a new Section 35333 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 3 AAP Payments

35333 DETERMINATION OF AMOUNT AND DURATION OF PAYMENT

35333

The responsible public agency shall negotiate the amount and duration of any Adoption Assistance Program (AAP) payment with the family. The negotiation shall be based on the documented needs of the child and the documented resources of the family and community available to meet those needs. In no case shall the AAP payment exceed the foster care payment which would have been paid on behalf of the child if the child had not been placed for adoption.

(a) Determination of the child's unmet needs

(1) The child's needs which would have been met by the foster care program had the child remained in foster care shall be determined by the agency after consultation with the adopting family.

(A) When only age appropriate basic care is needed, this need shall be documented by a brief statement to that effect.

(B) In those cases where the child may require care in addition to basic care, documentation of each need shall include:

1. A description of each need, including the underlying problem or condition and expected duration.

(i) The existence, nature, and duration of the identified need which would have been met by the foster care program and of the services which may meet the need shall be supported by a written diagnosis and prognosis by a licensed competent professional who is selected or approved by the agency and operating within the scope of his or her profession.

(ii) The adopting family shall be advised that the foster care program is not responsible for meeting a child's need for educational services.

2. A description of the services which may be able to meet the need including:

(i) The nature of the service.

(ii) The anticipated duration.

(iii) The itemized expected cost.

(iv) The service provider, if known.

(2) The community resources available to meet the child's needs shall be identified by the agency.

(A) Among the resources to be considered are:

1. California Children's Services
2. Community Mental Health Services
3. Regional Centers for the Developmentally Disabled

(3) The family resources available to meet identified needs that community resources are not available to meet shall be determined by the agency.

(A) The family's annual income shall be compared with the statewide median income pursuant to Welfare and Institutions Code Section 16119.

HANDBOOK BEGINS HERE

1. Welfare and Institutions Code Section 16119, in pertinent part, states:

"(c) ...The statewide median income data shall be used as a guideline to assist agencies and adoptive families in negotiating the amount of the Adoption Assistance Program benefit to be awarded to families to meet a child's needs for which other resources are unavailable. In all instances, actual living expenses, including any unusual expenses, shall be considered in evaluating the amount of benefit needed by the family to meet the child's needs..."

"(d) In applying the statewide median income guideline, agencies shall be guided by the following assumptions:

"(1) Families with income below the statewide median income may qualify for an amount up to the state approved basic foster care rate plus any state approved specialized care increment for which the child would be eligible if in foster care.

"(2) Families with income above the statewide median income shall be considered to be able to meet the normal child rearing expenses encompassed in the state approved basic foster family home care rate, but may qualify to receive benefits in an amount up to the state approved specialized care increments the child would be eligible to receive in foster care."

HANDBOOK ENDS HERE

(B) To compare the family's annual income with the statewide median income, the agency shall:

1. Determine the number of family members, including the child(ren) being adopted, dependent upon the family income.

(i) The agency may exclude one or more family members from this determination if the excluded family member has income that is available only to meet the needs of that family member. In such cases, that family member's income shall not be included in determining family income.

2. Determine what the family's annual income from all sources would be if the child(ren) being adopted were to receive no AAP cash benefits.

(i) Income from all sources shall include adjustable gross income as reported on the family's federal income tax return and non-taxable income from all sources.

HANDBOOK BEGINS HERE

Examples of non-taxable income are: AAP payments received on behalf of any previously adopted children, Aid for Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Social Security benefits, voluntary retirement contributions that reduce taxable income, and interest from tax exempt bonds.

HANDBOOK ENDS HERE

(ii) Income from all sources shall not include AFDC-FC, AFDC-FG/U, or AAP payments received on behalf of the child(ren) being adopted.

(iii) The determination shall be supported by documentation, including a copy of the most recent filed Federal Income Tax return, provided by the family and written statements made under penalty of perjury by the family.

3. Compare the family annual income as determined pursuant to Section 35333(a)(3)(B)2. with the projected adjusted statewide median income developed by the United States Department of Housing and Urban Development (HUD).

HANDBOOK BEGINS HERE

(i) For equity, HUD adjusts median income for family size by subtracting ten percent for each person fewer than four and adding eight percent for each person greater than four. For example, the adjusted median income for a family of two is 80 percent of the four person median and the adjusted median income for a family of six is 116 percent of the four person median. This adjustment is shown on the following table:

Number of Persons in Family and Percentage Adjustments						
2	3	4	5	6	7	8
80%	90%	Base	108%	116%	124%	132%

HANDBOOK ENDS HERE

- (C) The agency's initial conclusion based on the comparison in Section 35333(a)(3)(B) (3), shall be based on the assumption that a family whose annual income is above the adjusted statewide median income will be able to meet a child's basic care needs without assistance. *per agency 10-31-94*
- (D) The initial conclusion may require modification after consideration of the family's actual living expenses including any documented, unusual expenditures necessary for the health, safety, care or education of any family member which are not reimbursed by other sources.

HANDBOOK BEGINS HERE

1. Examples of such expenses include, but are not limited to:
- (i) Unusually high expenditures for housing, utilities, or transportation
  - (ii) The cost of health, safety, education and above normal care for any family member, including other adopted children

HANDBOOK ENDS HERE

- (4) The determination of the family's ability to meet the child's needs shall include a determination of the family's ability to meet the child's needs for medical care through health insurance or other means.
- (A) If the family is able to meet the child's other needs, but is unable to meet the child's needs for health care, the child may receive Medi-Cal benefits while receiving a zero dollar AAP grant.
- (b) Determination of maximum AAP payment amount
- (1) Step 1: Determine the state-approved foster care rate:
- (A) If the child is living in the home of the adoptive family:

1. The agency shall deem that:
  - (i) The child would be living in a licensed foster family home if the child had not been placed for adoption, and
  - (ii) The child's needs for care would be the same as in the adoptive home.
2. If the child has no needs which would qualify the child for a specialized care increment in a foster family home, the maximum rate is the age related state-approved basic foster family home care rate.
3. If the child has needs which would qualify the child for a specialized care increment in a foster family home and the needed services are being provided by the adoptive family, the maximum rate is the age related state-approved basic foster family home care rate plus the applicable state approved specialized care increment.
  - (i) In making this determination, the agency shall use the specialized care rate structure of the county where the child was placed in foster care immediately prior to formal adoptive placement.
  - (ii) The agency may require that the family provide written documentation of the provision of the needed services.
4. If the child is a client of a California Regional Center for the Developmentally Disabled, the maximum rate shall be the foster family home rate formally determined for the child by the Regional Center using the facility rates established by the State Department of Developmental Services.
5. If the child is placed for adoption in another state, the maximum rate shall be determined by the rate structure of the state in which the child was placed for foster care immediately prior to formal adoptive placement. Subsequent moves between states shall not effect this determination.

6. If the child is temporarily living away from the adoptive home and the payment is not based on Sections 35333(b)(1)(B) or (C), the child shall be considered to be living in the adoptive home if the eligibility requirements of Section 35326 continue to be met.

7. In no event may the maximum rate for a child living in an adoptive home be greater than the basic foster family home rate and any applicable specialized care increment.

(i) The maximum rate for a child living with an adoptive family shall not be based on a Foster Family Agency (FFA) treatment rate or on the payment made to a certified home by a FFA.

(B) If the child is placed in out-of-home care, either on a voluntary basis or as a court dependent, for the treatment of a condition that the agency has determined existed prior to the adoptive placement, the agency shall:

1. Conclude that the child would have been placed in the same out-of-home care setting if the child had not been placed for adoption only if, after consultation with the adoptive family, the agency has determined that:

(i) Out-of-home placement is necessary to meet the child's needs,

(ii) The specific placement is able to appropriately meet the child's needs, and

(iii) The rate classification level of the facility is appropriate to the child's needs.

2. If the determination has been made, the maximum rate is determined as follows:

(i) If the adoptive family is paying the cost of the placement directly, the maximum rate is the state-approved foster care rate for the facility.

(ii) If another agency (e.g., Welfare Department, Probation Officer, Regional Center) is paying for the cost of the placement, the maximum rate is the adoptive family's share of cost.

3. The maximum rate for a child who is placed in a group home or residential care treatment facility is also governed by Welfare and Institutions Code Section 16121 when the child's initial Adoption Assistance Agreement was signed on or after October 1, 1992.



HANDBOOK BEGINS HERE

(i) Welfare and Institutions Code Section 16121, in pertinent part, states:

"Payment may be made on behalf of an otherwise eligible child in a state-approved group home or residential care treatment facility if the department or county responsible for determining payment has confirmed that the placement is necessary for the temporary resolution of mental or emotional problems related to a condition that existed prior to the adoptive placement. Out-of-home placement shall be in accordance with the applicable provisions of Chapter 3 (commencing with Section 15000) of Division 2 of the Health and Safety Code and other applicable statutes and regulations governing eligibility for AFDC-FC payments or placements in in-state and out-of-state facilities. The designation of the placement facility shall be made after consultation with the family by the department or county welfare agency responsible for determining the Adoption Assistance Program eligibility and authorizing financial aid. Group home or residential placement shall only be made as part of a plan for return of the child to the adoptive family, that shall actively participate in the plan. Adoption Assistance Program benefits shall not be authorized for payment of an eligible child's group home or residential treatment facility placement that exceeds an 18-month cumulative period of time for a specific episode or condition justifying that placement"

HANDBOOK ENDS HERE

4. The child placed in out-of-home care may be placed with a foster family, a foster family agency, or a group home.

(C) If the child is placed in out-of-home care as a ward of the court under Welfare and Institutions Code Sections 601 or 602:

1. The maximum rate shall be the lesser of the share of cost actually paid by the family or the foster home rate determined in Section 35333(b)(1)(A).

(2) Step 2: Determine the child's income

(A) The agency shall determine the amount of income received by or on behalf of the child which the child would have been eligible to receive if the child had not been placed for adoption.

HANDBOOK BEGINS HERE

1. Examples of such income include:

- (i) Supplemental Security Income/State Supplemental Payments (SSI/SSP).
- (ii) Social Security benefits based on the earnings of a birth parent.
- (iii) Available income from an inheritance or a trust fund derived from assets of a birth parent or his or her relatives.

HANDBOOK ENDS HERE

(3) Step 3: Calculate maximum payment amount

- (A) The agency shall calculate the amount that would have been paid for foster care by subtracting the income identified in Section 35333(b)(2) from the state-approved foster care rate identified in Section 35333(b)(1). This process shall follow the procedures for computation of AFDC-FC as specified in MPP Section 45-302.431.

(c) Duration of payment authorization

- (1) The agency shall determine the duration of time between each authorization or reauthorization of AAP benefits and the subsequent reauthorization of AAP benefits. This payment authorization shall be in effect no longer than the shortest of the following periods of time:
  - (A) Two years,
  - (B) 18 months if the child is placed in out-of-home care and is receiving a grant greater than the basic care foster care grant,
  - (C) The expected duration of the services identified in Section 35333(a)(1)(B) if the child is receiving a grant based on a specialized care increment, or
  - (D) A time period ending at the end of the month in which the child becomes 18 years of age or, if the agency has determined that the child has a mental or physical condition that warrants the continuation of assistance, 21 years of age.

Authority Cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code.

Reference: Sections 15115.5, 16118, 16119, 16120, 16120.05, 16121, and 16121.05, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673 and 675.

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 3 Adoption Assistance Agreement

35335 CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT

35335

- 1a) Prior to the granting of a final decree of adoption, the agency and the prospective adoptive parents shall sign an adoption assistance agreement.
- 11) The adoption assistance agreement shall be on a form AD 4320 prescribed by the department.
- 12) If AAP is to be provided after the adoptive placement but prior to the final decree, the adoption assistance agreement shall be signed prior to the granting of assistance.
- 13) The child's adoptive name shall be used on the agreement.
- 14) In adoptive placements which involve more than one agency, both agencies shall sign the agreement.

Authority cited: Sections 10333, 10334, and 16118, Welfare and Institutions Code.

Reference: Section 16118 and 16119, Welfare and Institutions Code.

Amend Section 35337 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 4 Adoption Assistance Agreement

35337      CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT

35337

1A) The agreement shall specify the information required by 42 USC 673 and 693,  
45 CFR 1356.40, and Welfare and Institutions Code sections 16120 and 16121.

HANDBOOK BEGINS HERE

1Y) These sections require that the agreement specify the following:

1A) The amount of financial assistance

1B) The duration of financial assistance

1C) The effective date of payment

1D) That the existence of a medical condition of physical, mental,  
or emotional handicap or other condition which makes the child a  
special needs child has been confirmed by the agency

1E) That, until termination of financial assistance, the adoptive  
parents must notify the child's agency immediately regarding the  
following:

1/ Any substantial change in their financial circumstances

2/ Any change in the child's needs

3/ Any change in their place of residence

1F) The agency and the adoptive parents must reevaluate, and if  
appropriate, adjust the amount of assistance when the adoptive  
parents report any of the changes specified in 1E) above

1G) The county must provide the family with prior written notice of  
the date payments will be discontinued

1H) Continuation of payment depends upon continued legal  
responsibility of the adoptive parents for the support of the  
child and upon continued receipt by the child of that support

1I) The child is eligible for medical services

ANY The child is eligible for Title XX services

ANY The procedure for recertification of the adoption assistance agreement

ANY The agreement remains effective regardless of the state in which the adoptive parents reside

ANY Any additional services and assistance which are to be provided as part of the agreement.

HANDBOOK ENDS HERE

(a) The Adoption Assistance Agreement form (AD 4320) shall contain the following:

(1) The child's adoptive name and the name(s) of the adoptive parent(s).

(2) The amount of financial assistance.

(A) If the grant includes an amount to meet a need that is expected to change, the agreement shall state the amount to which the grant will be reduced when the need is not present.

(3) The duration of financial assistance.

(4) The specific needs and associated services for which payments are being authorized.

(5) That the existence of a characteristic that is a barrier to the child's adoption without subsidy has been confirmed by the agency.

(6) That, until termination of financial assistance, the adoptive parents shall notify the child's agency immediately regarding the following:

(A) Any substantial change in their financial circumstances.

(B) Any change in the child's needs.

(C) Any change in the provision of services for which payment is authorized.

(D) Any change in their place of residence.

(E) Any change in the child's residence.

(F) Any change in their responsibility for the support of the child or in their support of the child.

(7) That the agency and the adoptive parents shall reevaluate, and if appropriate, adjust the amount of assistance when any of the changes specified in Section 35337(a)(6) occur.

- (8) That a failure to report the changes specified in Sections 35337(a)(6)(A) through (F) may result in an overpayment which would be recovered by a ~~by~~ direct charge or a reduction in current and future AAP benefits. *per agency Dmc 10.31.94*
- (9) That the county must provide the family with prior written notice of the date payments will be changed or discontinued.
- (10) That continuation of payment depends upon continued legal responsibility of the adoptive parents for the support of the child and upon continued receipt by the child of that support.
- (11) That the AAP payment shall not exceed the payment that would have been made if the child had remained in foster care.
- (A) The AAP payment may be reduced if there is a change in the child's needs, the services provided the child, or other payments received on behalf of the child.
- (12) That the child is eligible for Medi-Cal services.
- (13) That the child is eligible for Title XX services.
- (14) The procedure for recertification of the AD 4320.
- (15) That the agreement remains effective regardless of the state in which the adoptive parents reside.
- (16) Any additional services and assistance which are to be provided as part of the agreement.

Authority Cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code.

Reference: 42 USC 673, 695; 45 CFR 1356.40; Sections 14051, 16120, 16120.05, ~~and~~ 16121 and 16121.05, Welfare and Institutions Code.

Amend Section 35339 to read:

35339 DEFERRED PAYMENT OF AAP

35339

- (a) When the effective date of payment is not known because a child has ~~special needs due to~~ a mental, physical, medical or emotional ~~handicaps~~ condition which does not require current benefits but which could require future benefits, the ~~Adoption Assistance Agreement form (AD 4320)~~ shall indicate that the family may request benefits to meet needs associated with the ~~handicaps~~ condition at an unspecified future date.

HANDBOOK BEGINS HERE

- 11) A history ~~relating~~ of abuse which is likely to lead to a future mental, physical, medical or emotional condition is treated as such a condition.
- 12) Section 35333(1)(2)(3) may be used to determine payment amount and duration when the family requests benefits.
- 13) An Adoption Assistance Agreement form may be used to record the new agreement.

HANDBOOK ENDS HERE

- (1) The existence of a condition which does not require current benefits shall be certified by a licensed professional competent to make an assessment of the condition and operating within the scope of his or her profession.
- (2) A history which is likely to lead to a future mental, physical, medical or emotional condition shall be considered as such a condition.
- (3) The requirements set forth in Section 35333 shall be used to determine payment amount and duration if the family requests AAP benefits.
- (4) An AD 4320 shall be used to record the revised agreement.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code; Section 1530, Health and Safety Code.

Reference: Sections 16118, 16120, 16120.05, ~~and~~ 16121, and 16121.05, Welfare and Institutions Code; 42 USC Sections 673 and 675.

Amend Section 35341 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 4 5 AAP Payment Authorization

35341 PROCEDURES FOR INITIATION OF PAYMENT

35341

(a) The responsible public agency shall provide the county responsible for payment with information necessary to allow the county to issue AAP payments and authorize the issuance of Medi-Cal cards.

(1) ~~At the time that~~ After the ~~adoption assistance agreement~~ (AD 4320) is signed and ~~when~~ the beginning date of payment is known, the agency shall complete ~~the~~ and send the following forms to the county:

(A) Payment Instructions for Adoption Assistance Program ~~form~~ (AAP 2) ~~and shall send the AAP 2 along with the,~~

(B) Eligibility Certification - Adoption Assistance Program (AAP 4)

(C) Federal Eligibility Information for Adoption Assistance Program (FC 9) and

(D) Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program (FC 10) ~~to the~~ ~~county.~~

(2) The child's adoptive name shall be used on the AAP 2, AAP 4, FC 9, and FC 10 and all related correspondence with the county.

HANDBOOK BEGINS HERE

1/ (A) The AAP 2 initially triggers the creation of a new county payment case record that, for reasons of confidentiality, must in no way identify former county case records, names or numbers.

2/ (i) Welfare and Institutions Code Section 16118(d) states:

"Welfare and Institutions Code Section 16118(d): The county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Section 16120 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the Aid to Families with Dependent Children program if the child were not adopted. The county of responsibility for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."

HANDBOOK ENDS HERE



18Y

1CY The agency shall send a new payment instruction form to the county within five working days of the date upon which it becomes aware of any change in family circumstances which would result in require a change in payment or change in the child's name, payee name, or address.

1/(b) Upon receipt of the payment instruction form AAP 2, the county shall issue payments as instructed.

2/ In a placement involving more than one agency, the following additional requirements shall be met:

1i) The AAP 2 shall be initiated by the adoptive parents/ agency, and shall be sent by that agency to the child's agency.

1ii) The child's agency shall indicate its concurrence by signing the AAP 2 and forwarding it to the county responsible for federal eligibility determination and payment, with a copy to the adoptive parents/ agency.

1iii) The form shall have no effect unless signed by both agencies.

3/ In cases where payments are initiated as a result of a deferred payment agreement as described in Section 15139, the payment instruction form shall be sent when the beginning date of payment is determined.

#### HANDBOOK BEGINS HERE

4/(1) Eligibility and Assistance Standards (EAS) 45-804.322 states: "EAS 45-804.322: The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date on which the county receives the Payment Instructions ~~for AAP~~ - Adoption Assistance Program form (AAP 2) from the agency authorizing payment."

#### HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Section 16118, Welfare and Institutions Code and 42 USC 673.

Amend Section 35343 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 5 6 AAP Recertification

35343 PROCEDURES FOR RECERTIFICATION OF ELIGIBILITY AND  
AUTHORIZATION OF PAYMENT AMOUNT

35343

1a) A recertification process shall be completed two years from the beginning date of AAP payment or from the effective date of the last change in payment/

HANDBOOK BEGINS HERE

11) EAS 45-80511 states: YEAS 45-80511: The county shall mail the adoptive parent(s) the Recertification Information form (AAP 3) between 60 and 70 calendar days prior to the date recertification is due and shall document in the case record the date such form was mailed/

12) EAS 45-80512 states: YEAS 45-80212: Recertification shall be due two years from the later of either the beginning date of payment or the effective date of change in payment resulting from the most recent payment instruction for AAP (AAP 2) form/

13) EAS 45-80612 states: YEAS 45-80612: The county shall send adequate notice of action prior to recertification between 60 and 70 days prior to the ending date of payment as specified in the adoption assistance agreement/

HANDBOOK ENDS HERE

14) The agency shall review the completed Recertification Information form (AAP 3)/

15) If the agency determines that a change in the amount of payment is necessary, the adoptive parent's concurrence shall be obtained prior to changing the amount of payment/

16) Within five working days of completion of the recertification process, including obtaining of concurrence if necessary, the agency shall complete and send to the county an AAP 2 indicating the following:

1A) The agency's decision regarding recertification of the child's continued eligibility for payment

1B) Any changes in payment amount

1C) The effective date of any such changes/

17) In the case of an adoption assistance agreement authorizing payments which terminate prior to the first recertification or between subsequent recertifications, the agency shall not authorize payments beyond the termination date unless the following requirements are met:

1A) The agency shall notify the county if the adoptive parents request an extension of adoption assistance payments.

1B) The county shall send a recertification information form to the adoptive parents.

1C) There shall be an interview with the adoptive parents in person or by telephone for the purpose of:

- 1/ Confirming entries on the recertification information form
- 2/ Collecting any additional information needed by the agency for determination of payment amount and duration
- 3/ Informing the adoptive parents of their rights and responsibilities under the agreement.

HANDBOOK BEGINS HERE

18) EAS 43-80513 states: EAS 43-80513: If the county has not received the payment instruction for AAP form AAP 21 by the tenth of the month prior to the date recertification is due, the county shall discontinue payment.

HANDBOOK ENDS HERE

(a) A recertification process shall be completed by the agency which authorized the initial payment either:

(1) During the 60-day period prior to the end of each payment authorization period specified in Section 35333(c).

(A) The process shall not be completed if the child is no longer eligible due to age.

(2) Prior to the 60-day period if the agency learns that the current AAP grant may no longer be appropriate because:

(A) The child and family no longer meet the AAP eligibility criteria specified in Section 35326.

HANDBOOK BEGINS HERE

1. Example: The child has moved out of the adoptive home, and the adoptive family is not contributing to the child's support.

HANDBOOK ENDS HERE

(B) The child's needs have changed.

HANDBOOK BEGINS HERE

1. Example: The adoptive parents are requesting assistance based on a deferred payment agreement completed as specified in Section 35339.

HANDBOOK ENDS HERE

(C) The services provided to meet the child's needs have changed.

HANDBOOK BEGINS HERE

1. Example: The child leaves a group home placement.
2. Example: The family is failing to provide the services for which the AAP benefit is authorized.

HANDBOOK ENDS HERE

(D) Available community resources have changed.

(E) Family circumstances, including financial resources, have changed substantially.

(b) The recertification process shall include the following steps:

- (1) The county responsible for payment shall mail the adoptive parent(s) the Recertification Information Adoption Assistance Program form (AAP 3) as specified in EAS 45-805.1.

HANDBOOK BEGINS HERE

- (A) MPP Section 45-805.1 states: "EAS 45-805.1: The county shall mail the adoptive parent(s) the Recertification Information - Adoption Assistance Program form (AAP 3) at least 60 calendar days prior to the date recertification is due and shall document in the case record the date such form was mailed."

HANDBOOK ENDS HERE

(B) The adoptive parent(s) shall return the AAP 3 to the agency which authorized the initial payment.

- (2) After the agency which authorized the initial payment has received the completed AAP 3 from the adoptive parent(s), the agency shall review the completed AAP 3 and determine the amount and duration of payment as specified in Section 35333.

- (A) At the adoptive parent's request, any other agency involved in the initial determination of the amount and duration of payment as specified in Section 35325(e)(3)(B)1. shall be consulted by the agency before the amount and duration of payment is redetermined.
- (B) If the adoptive parent fails to return the AAP 3 by the date recertification is due, the agency shall conclude that the family does not want to continue receiving assistance.
1. If the family requests renewed assistance within 30 days after the date recertification is due, the effective date of recertification shall be the date that recertification was due.
  2. If the family requests renewed assistance more than 30 days after the date recertification is due, the effective date of the recertification shall be not earlier than the date of the request.
- (3) If the agency determines that a change in the amount of payment appears appropriate, the adoptive parents' concurrence shall be obtained prior to changing the amount of payment.
- (A) The adoptive parents' concurrence to a change in amount of AAP payment is not required when:
1. The payment amount is changed to prevent the payment from exceeding the maximum payment amount specified in Section 35333(b).
  2. The payment amount is changed because the need for care in addition to basic care is no longer supported by a written diagnosis and prognosis by a licensed competent professional as required by Section 35333(a)(1)(B)1.(i).
  3. The payment amount is changed to collect an overpayment as specified in Section 35344.
  4. Payment is discontinued because the child no longer meets the AAP eligibility requirements specified in Section 35326.

HANDBOOK BEGINS HERE

- (B) If the adoptive parent does not agree with the change in the amount of the AAP payment, the parent may request a state hearing pursuant to MPP Section 22-004.

HANDBOOK ENDS HERE

- (4) The agency and adoptive parent(s) shall complete an AD 4320 which indicates that the agreement is an amendment to the initial AD 4320.
- (A) If the adoptive parent(s) does not concur with a payment amount change made by the agency pursuant to Section 35343(b)(3)(A) but wants to continue receiving a payment at the reduced level pending the outcome of a state hearing, the adoptive parent(s) shall so indicate that when signing the AD 4320.
- (5) The agency shall complete and send a Payment Instructions Adoption Assistance Program form (AAP 2) to the county within five working days of completing the recertification process.

HANDBOOK BEGINS HERE

- (A) MPP Section 45-805.3 states: "EAS 45-805.3: The county shall not provide assistance beyond the end of the last month of payment indicated on the Payment Instructions - Adoption Assistance Program form (AAP 2) unless continued assistance is authorized by the agency on a subsequent AAP 2."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 16120, ~~and~~ 16121 and 16121.05, Welfare and Institutions Code and 42 USC 673.

Adopt a new Article 7 and Section 35344 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 7 AAP Overpayments

35344      PROCEDURES FOR IDENTIFICATION AND RECOVERY OF OVERPAYMENTS      35344

(a) An overpayment of Adoption Assistance Program (AAP) benefits may exist in the following situations:

(1) The adoptive parent receives aid after the child becomes ineligible for assistance due to:

(A) The child attaining 18 or 21 years of age unless the agency determines that the child had a mental or physical condition which warranted the continuation of assistance beyond age 18.

(B) The adoptive parent discontinuing support to the child.

*all agency  
one  
10-31-94*

HANDBOOK BEGINS HERE

1. Example: The child moves to the home of an adoptive relative and the adoptive parent does not provide support to the child in the relative's home.

2. Example: The adoptive parent fails to utilize assistance being provided to pay the cost of an out-of-home placement to pay that cost.

HANDBOOK ENDS HERE

3. The parent may reestablish eligibility by resuming support of the child.

(C) The adoptive parent ceasing to be legally responsible for the child due to emancipation, relinquishment, vacation of the adoption, or termination of parental rights.

(2) The adoptive parent does not provide the services for which benefits were authorized.

HANDBOOK BEGINS HERE

(A) Example: Benefits were authorized to provide transportation to speech therapy twice a month, but the child is not receiving speech therapy.

- (B) Example: Benefits were authorized to provide out-of-home placement, but the child is no longer in out-of-home placement.

HANDBOOK ENDS HERE

- (3) The AAP payment exceeds the foster care payment which would have been paid on behalf of the child if the child had not been placed for adoption.
- (b) The agency which authorized payment shall compute the overpayment amount as follows:
- (1) Compute the correct AAP payment based on correct information for each month.
- (2) Subtract the correct AAP payment from the amount of assistance actually provided.
- (c) The agency which authorized payment shall inform the county responsible for payment of the reason for the overpayment and the computation of the overpayment amount.
- (d) The county shall attempt to recover the overpayment as specified in MPP Section 45-808, which provides for recovery by grant adjustment, demand for repayment, or civil judgment.

HANDBOOK BEGINS HERE

- (e) Overpayments determined to be caused by an adoptive parent's or out-of-home care provider's failure to report information may be referred to the county Special Investigative Unit described in MPP Section 22-007.1.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16120, 16121, and 16121.05, Welfare and Institutions Code.



Amend Section 35345 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article § 8 Notice of Action

35345 WHEN NOTICE OF ACTION IS REQUIRED

35345

- (a) The agency responsible for authorizing payment shall notify the county responsible for payment by using the Payment Instructions Adoption Assistance Program form (AAP 2) regarding any of the following events which require that the county send the adoptive parent a Notice of Action (NOA):
- (1) Denial of request for adoption assistance benefits.
  - (2) Completion of a deferred payment agreement (Section II of the AD 4320).
  - (~~3~~) Authorization of the initial grant.
  - (~~4~~) Completion of the recertification process.
  - (~~5~~) Payment termination.
  - (6) An overpayment requiring collection.
  - (~~7~~) Any change in grant amount.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section 16121.05, Welfare and Institutions Code and 45 CFR, Sections 205.10 and 1355.30.

Renumber Article 7 to 9 and amend Section 35347 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 7 9 Continuation of Aid for the Adoption of Children (AAC)

35347 STATUTORY PROVISIONS FOR AAC

35347

- (a) The agency shall follow the provisions of Welfare and Institutions Code Section 16121.05(~~d~~) for those adoption assistance agreements which were in effect prior to October 1, 1982.

HANDBOOK BEGINS HERE

- (1) Welfare and Institutions Code Section 16121.05(~~d~~) states:

*"Welfare and Institutions Code Section 16121.05(d) Children on whose behalf an aid for adoption of children agreement had been executed prior to October 1, 1982, shall continue to receive aid for adoption of children benefits in accordance with the terms of that agreement. This aid for adoption of children agreement may be renewed, provided total benefits do not exceed five years. Prior to the end of the five-year period, if there is a continuing need related to a chronic health condition of the child which necessitated the initial financial assistance, a parent may petition the department or the designated licensed adoption agency to continue financial assistance. The amount of financial assistance and the time period for which it may be given, shall be determined by the department or the agency, but shall not exceed the age of majority of the child extend past the time that the child reaches 18 years of age. Prior to the expiration of the extension period, if there is a continuing need, a parent may petition the department or the designated licensed adoption agency for a new period of termination. The department or the agency, shall make its determination regarding the financial ability of the parents to meet the continuing medical needs of the child, related to the child's health condition at the time of adoption, taking into consideration community resources."*

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code.

Reference: Section ~~16121.05~~ 16121.05(d), Welfare and Institutions Code.

Amend Section 35351 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article § 10 Documentation of AAP Eligibility

35351 MAINTENANCE OF SEPARATE RECORDS

35351

- (a) To maintain confidentiality of the adoption case record, the agency shall maintain copies of the following documents separate from the adoption case record:

- (1) ~~The adoption assistance agreement~~

The Request for Adoption Assistance (AAP 1).

- (2) ~~Verification that the child meets the definition of a special needs child~~

The Eligibility Certification - Adoption Assistance Program (AAP 4), which verifies that the child meets the Adoption Assistance Program eligibility criteria specified in Section 35326.

- (3) ~~The original and subsequent financial assistance authorizations/including information regarding the establishment of federal eligibility/linkage and documentation supporting the amount of the payment~~

The following documents relating to the determination of Federal eligibility:

- (A) Federal Eligibility Certification for Adoption Assistance Program (FC 8).
- (B) Determination of Federal AFDC-FC Eligibility (FC 3).
- (C) Federal Eligibility Information for Adoption Assistance Program (FC 9).
- (D) Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program (FC 10).
- (4) Documentation supporting the determination of the amount and duration of payment made pursuant to Section 35333.
- (5) The initial Adoption Assistance Agreement (AD 4320).
- (46) Completed recertification documents, including:
- (A) Recertification Information - Adoptions Assistance Program (AAP 3).

- (B) The Adoption Assistance Agreement (AD 4320) used as an amendment to the initial agreement.
- (7) Payment instructions sent to the county Instructions - Adoption Assistance Program (AAP 2).
- (8) (Continued)
- (9) State hearing decisions.
- (10) All AAP related correspondence from the adoptive parent, including supporting documentation submitted to the agency by the parent.
- (11) Any other correspondence relating to the determination of AAP eligibility or grant amount.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section 16118 ~~and 16120~~, 16120 and 16120.05, Welfare and Institutions Code and 42 USC 671 and 673.

Adopt a new Article 11, renumber existing Section 35332 to 35352 and amend to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 11 Reimbursement for Nonrecurring  
Adoption Expenses

35332 NOTIFICATION REQUIREMENTS FOR AGENCIES

35352

- (a) The agency shall provide information on the availability of reimbursement for nonrecurring adoption expenses to adoptive parents as follows: inform all applicants that:

- (1) All clients who adopted a special needs child between January 1, 1987 and June 14, 1989 of the availability of reimbursement for nonrecurring adoption expenses paid after January 1, 1987.

Reimbursement for nonrecurring adoption expenses is available to adoptive parents who adopt an AAP eligible child.

- (2) For adoptions in which a final decree was entered between January 1, 1987 and June 14, 1989, or where a final decree was entered before January 1, 1987 but nonrecurring adoption expenses were paid after January 1, 1987, individuals who seek reimbursement must enter into an agreement with the agency and file a claim with the agency on or before December 14, 1990.

The agency shall inform applicants that agreements entered into pursuant to this section shall meet the provisions of Section 35352.1(a)(7).

- (3) For adoptions in which a final decree was entered into after June 14, 1989, agreements must be signed at the time of or prior to the final decree of adoption.

- (4) In such cases, claims for reimbursement must be filed with the agency responsible for payment of AAP benefits within two years of the date of the final decree of adoption.

(b) The agency shall inform all applicants of the availability of this reimbursement as specified by section 35013(a)(3).

(c)

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Sections 16119 and 16120.1, Welfare and Institutions Code and 45 CFR 1356.41(e).

Renumber existing Section 35332.1 to 35352.1 and amend to read:

353~~3~~52.1 ELIGIBILITY FOR REIMBURSEMENT

353~~3~~52.1

- (a) In order for a claim to be eligible for reimbursement, the responsible public agency shall:
- (1) (Continued)
  - (2) Record in the case file that the child for whose adoptive costs the parents are claiming reimbursement is ~~a special needs~~ an AAP eligible child as defined in Section ~~35000(a)(1)~~ 35000(a)(1).
  - (3) through (6) (Continued)
  - (7) ~~Except as provided in Section 35332(a)(2)(A)~~ Ensure that all adoptive parents sign an agreement with the agency prior to finalization of the adoption. The content of all such agreements shall meet the requirements as follows:
    - (A) The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.
    - (B) (Continued)
  - (8) Limit the maximum reimbursement for nonrecurring adoption expenses to \$400.00 per placement of ~~a special needs~~ an AAP eligible child.  
(Continued)

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.41.

Renumber existing Section 35332.2 to 35352.2 and amend to read:

353~~3~~52.2 AUTHORIZATION FOR REIMBURSEMENT

353~~3~~52.2

- (a) Pursuant to a determination that a claim for reimbursement for nonrecurring adoption expenses meets the eligibility criteria in Section ~~35332.1~~ 35352.1, the responsible public agency shall authorize the appropriate county to reimburse the adoptive parents. (Continued)

Authority Cited: Sections 10553, 10554, and 16120.1(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.41(g).

Renumber existing Section 35332.3 to 35352.3 and amend to read:

353~~3~~52.3 AGENCY REQUIREMENTS FOR REIMBURSEMENTS

353~~3~~52.3

(a) (Continued)

HANDBOOK BEGINS HERE

(1) Welfare and Institutions Code Section 16120.1, in pertinent part, states:

(A) "Upon the authorization of the ~~licensed adoption agency/ or where appropriate/ the~~ department or, where appropriate, the county responsible for ~~providing adoption assistance program payments~~ determining the child's Adoption Assistance Program eligibility status and for providing financial aid, the responsible county shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a ~~special needs~~ child eligible for the Adoption Assistance Program.... Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department...."

(2) (Continued)

HANDBOOK ENDS HERE

(b) The state shall reimburse counties for payments made to adoptive parents of ~~special needs~~ AAP eligible children as mandated by Welfare and Institutions Code Section 16120.1.

HANDBOOK BEGINS HERE

(1) (Continued)

HANDBOOK ENDS HERE

(c) Reimbursement for nonrecurring adoption expenses is contingent upon the ongoing existence of the federal program for these reimbursements as mandated by Welfare and Institutions Code Section 16120.1(~~pc~~).

HANDBOOK BEGINS HERE

(1) Welfare and Institutions Code Section 16120.1(~~pc~~), in pertinent part, states:



- (A) "...No payments shall be made under this section if the federal program for reimbursement of nonrecurring expenses for the adoption of ~~special needs~~ children eligible for the Adoption Assistance Program pursuant to Section 673 of Title 42 of the United States Code is terminated."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code.

Amend Section 45-801.1 to read:

CHAPTER 45-800 ADOPTION ASSISTANCE PROGRAM (AAP)

45-801 DEFINITIONS

45-801

The definitions specified in Title 22, California Code of Regulations (CCR), Section ~~10553~~ 35000 shall apply in this chapter.

HANDBOOK BEGINS HERE

.1 CCR Title 22, Section ~~10553~~ 35000 states in part:

- .11 *"Agency" means the state department of social services acting as an adoption agency or a public or private licensed adoption agency!*

"AAP Eligible Child" means a child who meets the eligibility criteria of Welfare and Institutions Code Section 16120 found in Section 35326.

- .12 *"County" means the county welfare department responsible for federal eligibility determination and payment! In cases in which Los Angeles County is responsible, the term county means the Los Angeles County Department of Adoptions!*

"Agency" means a licensed California public or private adoption agency, or the department's adoption district offices.

- .13 *"Hazard-to-place child" means hazard-to-place child as defined in Welfare and Institutions Code Section 16118!*

"County" means the income maintenance division in each county welfare department responsible for federal and state eligibility determination and payment of AAP benefits.

- .14 *"Recertification" means the process by which the adoption agency determines whether changes in either the needs of the child or the circumstances of the adoptive parents affect eligibility for, or the amount of payment agency and the adoptive parent determine whether there are any changes in either the child's needs or the adoptive parent's circumstances which affect eligibility for and/or duration of and/or amount of adoption assistance payments.*

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16118, 16120 and 16120.05, Welfare and Institutions Code and 42 USC 673.

Amend Section 45-802 to read:

45-802 AAP ELIGIBILITY

45-802

.1 (Continued)

- .11 For purposes of state AAP benefits, the agency shall have determined that the child is a special needs child and that an AAP eligible child who meets the conditions specified in Welfare and Institutions Code Sections 16120(a), (b), (c), (d), and (e) are met.

HANDBOOK BEGINS HERE

- .111 Welfare and Institutions Code Section 16120 states in pertinent part:

- (a) The department of licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits. The adoption assistance agreement shall, at a minimum, specify the duration of assistance, the responsibility of the adopting family for reporting changes in circumstances, and the periodic recertification required for reevaluating the continuing needs of the family.
- (b) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.
- (c) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and have signed an adoption assistance agreement.
- (d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.
- (e) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court, or committed to the department pursuant to subdivision (c) of Section 226 of the Civil Code.

"A child shall be eligible for Adoption Assistance Program benefits if all of the following conditions are met:

- (a) The child has at least one of the following characteristics that are barriers to his or her adoption:

- (1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of 3 years older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.
- (2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability pursuant to Welfare and Institutions Code Section 4512 subdivision (a), including those determined to require out-of-home nonmedical care as defined in Welfare and Institutions Code Section 11464.
- (b) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.
- (c) The child is the subject of an agency adoption as defined in Section 8506 of the Family Code and was any of the following:

  - (1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency,
  - (2) Relinquished for adoption to a licensed California private or public adoption agency, or the department, and would otherwise have been at risk of dependency as certified by the responsible public child welfare agency, or
  - (3) Committed to the department pursuant to Section 8805 or 8918 of the Family Code.
- (d) The child is under 18 years of age, or under 21 years of age and has a mental or physical condition which warrants the continuation of assistance.
- (e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits."

HANDBOOK ENDS HERE

.12 Eligibility of a child for whom an initial Adoption Assistance Agreement (AD 4320) was signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).

HANDBOOK BEGINS HERE

.121 Welfare and Institutions Code Section 16121.05(b) states:

"(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement."

HANDBOOK ENDS HERE

.123 After the agency has determined that the child has met the conditions of Welfare and Institutions Code Sections 16120(a), (b) and (d), the county shall determine for purposes of federal AAP eligibility whether the child meets the requirements of either 122 or 122 Sections 45-802.131, .132 or .133 below at the time the adoption petition is filed for purposes of federal AAP eligibility.

.1231 (Continued)

122 The child shall have met both of the following conditions:

1a) At the time the adoption proceedings were initiated, the child met all the following requirements:

11) The deprivation requirements of MPP Chapter 41-400;

12) The income requirements of MPP Chapter 44-100;

13) The property requirements of MPP Chapter 42-200;

14) The child either was living with a relative as specified in MPP section 43-101, or was no longer living with a relative due to the child's removal from the home of a relative pursuant to a court order;

~~10Y~~ In the month the petition was filed which led to the court order for removal, the child met the AFDC-FG/U linkage determination specified in MPP Section 43+ 202/31

.132 The child shall meet all of the requirements necessary to receive aid under the federal AFDC-FC (Title IV-E foster care) program.

~~113~~ (a) (Continued)

.133 The child shall meet all of the requirements necessary to receive aid under the federal AFDC-FG or U program and be placed for adoption with the relative with whom the child has been living.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16120 and 16121.05(b), Welfare and Institutions Code and 42 USC 673.

Amend Section 45-803 to read:

45-803 COUNTY OF RESPONSIBILITY

45-803

.1 (Continued)

.2 The determination of the county responsible for the actions in Section 45-803.1 shall be made in accordance with Title 22, Section 30671(c)(3) Welfare and Institutions Code Section 16118(e).

HANDBOOK BEGINS HERE

.21 Title 22, Section 30671(c)(3) states in part:

1211 If the child would have received AFDC/FC/0 or AFDC/FC/1 if not placed for adoption, the responsible county is the county which at the time of the adoptive placement would have made such payment.

1212 If the above provision is inapplicable, the responsible county shall be the county in which the child physically resided prior to the adoptive placement.

1213 Once county of responsibility is established, it shall not change for the duration of the adoption assistance payments for that child.

Welfare and Institutions Code Section 16118(e), in pertinent part, states:

"For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the Aid to Families with Dependent Children program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."

HANDBOOK ENDS HERE

.3 Once established, the county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Section 16118, Welfare and Institutions Code.

Amend Section 45-804 to read:

45-804 PAYMENT

45-804

.1 County Actions and Payment Amount

.11 Upon receipt of the Payment Instructions ~~for AAP~~ - Adoption Assistance Program form (AAP 2) and the Federal Eligibility Information for ~~AAP~~ Adoption Assistance Program form (FC 9) from the agency, the county shall determine whether the child meets the requirement for federal AAP eligibility as specified in Section 45-802.12 3.

.111 When the child meets the requirements of ~~either~~ Sections ~~45-802.121 or 45-802.122~~ 45-802.131, .132, or .133, FFP shall be claimed in the AAP payment up to the maximum of the AFDC-FC ~~rate for family home~~ payment for the child if in a foster family home.

.112 In those cases where the child is federally eligible, and will receive a payment greater than the payment for the child if in a foster family home rate, state participation shall be available to supplement the remainder of the AAP payment. (Continued)

.12 The county shall issue the payment in the amount indicated on the ~~payment instructions for AAP form AAP 2~~, except as provided in .212 below.

.2 Beginning Date of Payment

.21 The beginning date of payment for AAP shall be the date indicated on the ~~payment instructions for AAP form AAP 2~~. (Continued)

.3 Payee and Delivery

.31 (Continued)

.311 Upon the written instruction of the adoptive parent, payment may be made on the parent's behalf to a provider of out-of-home care services if the child is placed out of the adoptive home.

.32 (Continued)

.321 (Continued)

.322 The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date ~~in~~ on which the county receives the ~~payment instructions for AAP form AAP 2~~ from the agency authorizing payment.



.4 Recertification and Restoration of Payment

- .41 After initial authorization of payment, the county shall take action to restore, increase, suspend, decrease, or discontinue payment as instructed by the agency on the ~~Payment Instructions for AAP form~~ AAP 2.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16121, Welfare and Institutions Code and 42 USC 673.

Amend Section 45-805 to read:

45-805 RECERTIFICATION OF ELIGIBILITY

45-805

- .1 The county shall mail the adoptive parent(s) the Recertification Information - Adoption Assistance Program form (AAP 3) ~~between~~ at least 60 and 70 calendar days prior to the date recertification is due and shall document in the case record the date such form was mailed.
- .2 Recertification shall be due ~~two years from the later of either the beginning date of payment or the effective date of change in payment resulting from at the end of the last month of payment specified on the most recent Payment Instruction for AAP~~ Instructions - Adoption Assistance Program form (AAP 2).
- ~~121~~ The recertification process shall be completed on or before the first of the month following the end of the two-year recertification period.

HANDBOOK BEGINS HERE

- .21 EXAMPLE: The beginning date of payment is May 13, ~~1983~~ 1993. Recertification is due on ~~June 1/ 1983~~ April 30, 1995. The Recertification Information form shall be sent to the adoptive parent(s) ~~between March 23 and April 2~~ before March 2, 1995.

HANDBOOK ENDS HERE

- .3 The county shall not provide assistance beyond the end of the last month of payment indicated on the AAP 2 unless continued assistance is authorized by the agency on a subsequent AAP 2.
- .31 If the county has not received the Payment Instructions for AAP form AAP 2 by the ~~teenth~~ 10th of the month prior to the date recertification is due, the county ~~shall discontinue payment~~ is not required to meet the payment time frames specified in Section 45-804.321 but shall meet the time frames specified in Section 45-804.322.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Section 16120.05, Welfare and Institutions Code.

Amend Section 45-806 to read:

45-806 NOTICE OF ACTION

45-806

- .1 ~~When county action would result in the granting/ denial/ restoration of increase in payment/~~ The county shall mail the adoptive parent(s) adequate notice as defined in MPP Section ~~22-001/1/~~ 22-001a.(1) after receiving notice from the agency of any of the following events:
  - .11 Denial of a request for adoption assistance benefits.
  - .12 Completion of a deferred payment agreement.
  - .13 Authorization of the initial grant.
  - .14 Completion of the recertification process.
  - .15 Payment termination.
  - .16 An overpayment requiring collection.
  - .17 Any change in grant amount.
- .2 ~~The county shall send adequate notice of action prior to recertification between 60 and 70 days prior to the ending date of payment as specified in the adoption assistance agreement~~ to the adoptive parent with the Recertification Information - Adoption Assistance Program form (AAP 3) stating that assistance will stop on the date recertification is due if recertification is not completed.
- .3 (Continued)
- .4 When county action would result in a discontinuance, suspension, or decrease in payment, the county shall mail adequate and timely notice as defined in MPP Sections ~~22-001/1 and 22-001/1b~~ 22-001a.(1) and 22-001t.(1). Such notice shall be mailed to the adoptive parent(s) at least ten days prior to the effective date of the proposed action. (Continued)

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section 16121.05, Welfare and Institutions Code and 45 CFR 205.10 and 1355.30.

Amend Section 45-807 to read:

45-807      MAINTENANCE OF CASE RECORD

45-807

.1    The county AAP case record shall contain copies of the following:

- .11    All Payment Instructions ~~for AAP~~ - Adoption Assistance Program forms (AAP 2) received from the adoption agency.
- .12    The Eligibility Certification - Adoption Assistance Program form (AAP 4).
- .123    The ~~statement~~ Federal Eligibility Information for Adoption Assistance Program form (FC 9) and the Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program form (FC 10) from the agency supporting the determination that the child meets the federal AAP eligibility requirements of Section 45-803.

Authority Cited:    Sections 10553 and 16118, Welfare and Institutions Code.

Reference:            Section 16118, Welfare and Institutions Code.

Adopt Section 45-808 to read:

45-808      OVERPAYMENT RECOUPMENT

45-808

.1    The county may attempt to recover all AAP overpayments.

.11    Recovery of overpayments from an adoptive parent no longer receiving assistance is not required when the cost of collection would exceed the amount of recovery.

.12    Recovery shall be made from the adoptive parent(s) who signed the Adoption Assistance Agreement form (AD 4320).

.121    If the overpayment resulted from a payment made to an out-of-home care provider upon request of the adoptive parent, as provided in Section 45-804.311, recovery of payments made for services not provided shall be made from the out-of-home care provider.

.2    Methods of Recovery

.21    Grant Adjustment

.211    Subject to the limit in Section 45-808.212, the overpayment shall be subtracted from the current AAP payment. If the current AAP payment is insufficient to recover the entire overpayment, then the remaining amount of the overpayment shall be subtracted from the AAP payments to be received during the succeeding six months or less, or by the end of the child's eligibility for AAP benefits, whichever occurs first.

.212    The amount of the adjustment shall not exceed an amount which would cause the adoptive family's net income to be below the Aid to Families With Dependent Children (AFDC) Minimum Basic Standard of Adequate Care (MBSAC) as specified in Section 44-315.311.

.22    Demand for Repayment

.221    The county shall demand repayment of any amount not recovered by grant adjustment, or otherwise repaid using the appropriate Notice of Action form.

.23    Civil Judgment

.231    If the adoptive parent no longer receiving aid refuses or is unable to repay the amount demanded, the county shall refer the case to the appropriate county official for action on a civil judgment.

(a)    An abstract of civil judgment shall be recorded pursuant to Section 674, Code of Civil Procedure, in any county in which the recipient owns real property.

(b) If a recipient is ineligible for further aid, the county shall take all appropriate action pursuant to Section 681, et seq., Code of Civil Procedure, to execute the judgment.

.24 Nothing in Sections 45-808.21, .22 or .23 shall preclude the county from arriving at a reasonable settlement of its demand for repayment with the adoptive parent.

Authority Cited: Sections 10553, 16118 and 16121.05, Welfare and Institutions Code.

Reference: Section 16121.05, Welfare and Institutions Code.

## NOTICE PUBLICATION REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

Original  
For use by Secretary of State only

AGENCY California Department of Social Services

AGENCY FILE NUMBER (if any)

0292-04

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-94-0524-03	REGULATORY ACTION NUMBER 94-1007-020	EMERGENCY NUMBER 94-0602-01E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

NOV - 3 1994

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

NOV - 3 1994

At 3:34 O'clock P.M.  
TONY MILLER, Acting Secretary of StateBy Cassio L. Conick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Interstate Compact on the Placement of Children (ICPC) Revisions		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) 22	ADOPT
SECTIONS AFFECTED	AMEND 35400 and 35409(b)
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not Applicable

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON  
Frank Vitulli, Chief, Office of Regulations DevelopmentTELEPHONE NUMBER  
(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson  
TYPED NAME AND TITLE OF SIGNATORY  
Eloise Anderson, Director

DATE

OCT 03 1994

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.



Amend Sections 35400(c), (i), (p), (r), and (s) to read:

ARTICLE 1: DEFINITIONS AND CONDITIONS

35400 DEFINITIONS

35400

- (a) (1) (Continued)
- (b) (Reserved)
- (c) (1) "California Agency" means a CDSS Adoptions district office or a licensed public or private adoption agency.  
(2) "CDSS" means the California Department of Social Services.
- (d) (Reserved)
- (e) (Reserved)
- (f) (Reserved)
- (g) (Reserved)
- (h) (Reserved)
- (i) (1) "ICPC" means Interstate Compact on the Placement of Children.  
(2) "ICPC 100A (Rev. 10/91)" means the CDSS form "Interstate Compact Placement Request."  
(3) "ICPC 100B (Rev. 10/91)" means the CDSS form "Interstate Compact Report on Child's Placement Status."
- (j) (Reserved)
- (k) (Reserved)
- (l) (Reserved)
- (m) (Reserved)
- (n) (Reserved)
- (o) (Reserved)
- (p) (1) (Continued)  
(2) (Continued)  
(3) "Prospective Adoptive Parent" is defined at Family Code Section 8542.

(q) (Reserved)

(r) (1) (Continued)

(2) "Receiving Agency in the Relinquishment Adoptions Program" means a licensed adoption agency or CDSS Adoptions district office that is designated to receive any child from another party state for the purpose of adoption.

(s) (1) "Sending Agency in the Independent Adoptions Program" means the birth parent(s) who sends, brings, or causes to be sent or brought any child to another party state for the purpose of adoption.

(2) "Sending Agency in the Relinquishment Adoptions Program" means a licensed adoption agency or CDSS Adoptions District Office that sends, brings, or causes to be sent or brought any child to another party state for the purpose of adoption.

(3) "Sending State in the Independent Adoptions Program" means the state of residence of the birth parent placing a child for adoption in California. The child being placed is deemed to have been brought into California from the sending State regardless of the child's place of birth, including California.

(t) (Reserved)

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 16100, Welfare and Institutions Code; Section 1502, Health and Safety Code; and Section 7900, Family Code.

Amend Sections 35409(b)(1) and (b)(1)(A) to read:

35409 CHILDREN ENTERING CALIFORNIA

35409

(a) (Continued)

(b) Before a child is permitted to enter California, the prospective adoptive parent(s) must either:

(1) Have a preplacement interview completed by an CDSS Adoptions district office or an adoption agency delegated responsibility by the CDSS for making studies and reports to the court on independent adoptions; or

(A) If the child is unborn and placement is planned shortly after birth, the California agency shall be notified of the proposed placement at least 30 days prior to the expected birth to allow time for the preplacement interview regardless of whether the place of expected birth is within California.

(B) Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 16100, Welfare and Institutions Code and Sections 7901, 7903, and 8801, Family Code.

## NOTICE PUBLICATION REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 2-2-91)

## AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (if any)

0694-20

OAL FILE  
NUMBERSNOTICE FILE NUMBER  
Z94-0726-13

REGULATORY ACTION NUMBER

94-1103-01C

EMERGENCY NUMBER  
94-0823-05E

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

1994 ENDORSED PM 1:07  
APPROVED FOR FILING  
AND PUBLICATION  
ADMINISTRATIVE LAW  
NOV 22 1994

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

NOV 22 1994

At 3:16 O'clock P.M.  
TONY MILLER, Acting Secretary of State  
By Robert L. Lomick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE AFDC Income/Resource Exclusion for Individual Indians		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
<input type="checkbox"/> Other				
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-1103-2	PUBLICATION DATE 8-5-94

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND Sections 42-213.512 and 44-111.61
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)

☐ Resubmittal

☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)

☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only

☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State

☒ Effective on filing with Secretary of State

☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)

☐ Fair Political Practices Commission

☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson  
TYPED NAME AND TITLE OF SIGNATORY  
ELOISE ANDERSON, Director

DATE

November 1, 1994

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 42-213.512 to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY  
WHICH MAY BE RETAINED (Continued)

42-213

.5 (Continued)

.51 Property which is mandatorily exempt under federal law includes, but is not limited to: (Continued)

.512 PL 93-134, PL 97-458 and PL 98-64 which exempt as property the funds of Native American tribes including interest earned from, investment income derived from and initial purchases made with such funds when the funds ~~are~~ have been:

~~(a) Distributed per capita or held in trust as a result of a judgement awarded by the Indian Claims Commission or U.S. Court of Claims;~~

~~(a)~~ Distributed by the Secretary of the Interior on a per capita basis; or

~~(b)~~ Held in trust by the Secretary of the Interior; or

~~(c)~~ Individually owned trusts or restricted lands.

.513 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11155, 11155.1, 11155.2, 11155.5, and 11257, Welfare and Institutions Code; 45 CFR 233.20(a)(3)(i)(B) and (a)(4)(ii); Sidwell v. McMahon, United States District Court (E.D. Cal.) May 7, 1990, civil no. S-89-0445; ~~and~~ the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994; Section 4, Public Law 97-458; Section 2, Public Law 98-64; and Federal Action Transmittal 91-23.

Amend Section 44-111.61 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION  
AS INCOME (Continued)

44-111

.6 (Continued)

.61 Income which is mandatorily exempt under federal law includes but is not limited to: (Continued)

b. PL 93-134, PL 97-458 and PL 98-64 which exempt as income ~~property~~ the funds of Native American tribes including interest earned from, and investment income derived from ~~and initial~~ ~~purchases made from~~ such funds when the funds ~~are~~ have been:

~~(1) Distributed per capita or held in trust as a result of a judgement awarded in Indian Claims Commission or U.S. Court of Claims;~~

~~(2) Distributed by the Secretary of the Interior on a per capita basis; or~~

~~(2) Held in trust/ by the Secretary of the Interior.~~

c. PL 103-66 which exempts, up to \$2,000 in any 12 consecutive month period, the income of individual Indians when such income is derived from individually owned interests in trust or restricted lands.

d. (Continued)

e. (Continued)

f. (Continued)

g. (Continued)

h. (Continued)

i. (Continued)

j. (Continued)

k. (Continued)

l. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11008.15, 11280, and 11451.7, Welfare and Institutions Code; 42 USC Section 602(g)(1)(E)(i); Section 8, Public Law 93-134; Section 2, Public Law 98-64; Section 13736, Public Law 103-66; Federal Action Transmittal 93-14; Section 202(a), Public Law 100-485 and Section 479B, Public Law 102-325; 45 CFR 233.20(a)(4)(ii); 45 CFR 233.20(a)(11)(v)(C); 45 CFR 255.3(f)(1); Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 2-81)

AGENCY  
California Department of Social ServicesAGENCY FILE NUMBER (If any)  
0494-08

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-94-0621-12	REGULATORY ACTION NUMBER 94-1014-02C	EMERGENCY NUMBER 94-0624-07E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

NOV 29 1994

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

NOV 29 1994

At 3:13 O'clock P.M.  
TONY MILLER, Acting Secretary of State  
By Colin A. Lomick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Educational Income Exclusions in the Food Stamp Program		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94, #26-2	PUBLICATION DATE 7-1-94

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT 63-026
SECTIONS AFFECTED	AMEND 63-502.1 and .2
	REPEAL

## 2. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))
- ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

- ☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not Applicable

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

- ☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) 12-01-94

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

- ☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

## TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson  
TYPED NAME AND TITLE OF SIGNATORY  
Eloise Anderson, Director

DATE

OCT 12 1994

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

## ALL FILINGS

Enter the agency name and agency file number, if any.

## NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

## REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

## RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

## EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

## NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

## CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

## EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 63-026 to read:

63-026 IMPLEMENTATION OF EDUCATIONAL INCOME EXCLUSIONS  
IN THE FOOD STAMP PROGRAM

63-026

- .1 Beginning July 1, 1994, county welfare departments (CWDs) shall implement the amended or adopted provisions for all food stamp applicants as follows:
  - .11 The amendment pertaining to the allowance of educational income exclusions for students attending high school or training as specified in Section 63-502.2(e), requires that benefits, for continuing cases and any households entitled to restored benefits, be restored back to the date of application or February 1, 1992, whichever occurred later. Restoration of benefits shall be made upon request by the household, at recertification, when the case is next reviewed, or when the CWD becomes aware that a review is needed, whichever occurs first.
  - .12 All other amended provisions, Section 63-502.137, Section 63-502.145, Section 63-502.2(b), the remainder of Section 63-502.2(e), Section 63-502.2(g), and Section 63-502.2(l), require that benefits for continuing cases and any households entitled to restored benefits, be restored back to the date of application or July 1, 1993, whichever occurred later. Restoration of benefits shall be made upon request by the household, at recertification, when the case is next reviewed, or when the CWD becomes aware that a review is needed, whichever occurs first.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Sections 10553 and 18904, Welfare and Institutions Code; 7 CFR 273.9(c)(3) and (c)(10)(xi); PL 101-624; and PL 102-325.

Renumber Section 63-502.2(e)(1) to Section 63-502(e)(3)(A) and amend Sections 63-502.137 and .145 and Sections 63-502.2(b), (e), (g)(1) and (2), and (1) and (1)(4) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS

63-502

.1 Income Definition (Continued)

.13 Earned income shall include: (Continued)

.137 Work study income which has not been excluded by federal statute, as specified in Section 63-502.2(1)(4), or through application of allowable exclusions as specified in Section 63-502.2(e).

.14 Unearned income shall include, but not be limited to: (Continued)

.145 Scholarships, educational grants, fellowships, deferred payment loans for education, veterans' educational benefits and the like which have not been excluded by federal statute, as specified in Section 63-502.2(1)(4) or through application of allowable exclusions as specified in Section 63-502.2(e). (Continued)

.2 Income Exclusions. Only the following items shall be excluded from household income: (Continued)

(b) Vendor payments. (Continued)

(4) Deferred educational loans, grants, scholarships, fellowships, veterans' educational benefits, and the like, are legally obligated to the household and therefore are not vendor payments. (Continued)

(e) Educational assistance not otherwise excluded by federal statute as specified in Section 63-502.2(1), to the extent that it is either earmarked by the lender, used for, or intended to be used for allowable educational expenses at qualifying institutions as specified in Section 63-502.2(e)(3).

(1) The educational assistance may be in the form of loans on which payment is deferred, grants, scholarships, work study, fellowships, veterans' educational benefits, and the like.

(2) Allowable educational expenses include tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved), books, supplies, transportation, dependent care, miscellaneous personal expenses (other than living expenses, such as rent or mortgage, personal clothing, or food eaten at home), and origination fees and insurance premiums on student loans.

- (3) Qualifying institutions are: those providing secondary or post-secondary education or the equivalent of a secondary diploma, including correspondence schools at these levels; a school at any level for the physically or mentally handicapped; or a vocational education program.

(A) For the purpose of this provision, institution of post-secondary education means any public or private educational institution which: (a) meets the definition of institution of higher education as specified in Section 63-102(i), or (b) admits persons who are beyond the age of compulsory school attendance in the state in which the institution is located. The institution must be legally authorized or recognized by the state to provide: (a) an educational program beyond secondary education in the state, or (b) a program of training to prepare students for gainful employment.

(4) (Continued)

(g) (Continued)

- (1) Excludable reimbursements which are not considered to be a gain or benefit to the household include, but are not limited to the following:

(D) (Continued)

(E) (Continued)

(F) (Continued)

(G) (Continued)

(H) (Continued)

- (2) The following shall not be considered a reimbursement excludable under this provision:

(A) (Continued)

(B) (Continued)

- (1) Any income that is specifically excluded by federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program. The following is a listing of some of the types of income excluded by federal statute: (Continued)

- (4) Educational assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act and/or the Bureau of Indian Affairs Student Assistance Programs. (Continued)

Authority Cited: Sections 10553, 10554, 11209 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Public Law (P.L.) 99-198, Section 1509(b); P.L. 101-201; P.L. 101-624; P.L. 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 100-77; P.L. 102-237; P.L. 102-325; 7 CFR 271.2; 7 CFR 273.7(f); 7 CFR 273.9; 7 CFR 273.9(b)(1) and (c), 7 CFR 273.9(c)(1) and (i), (iii), (iv), and (iv)(B), and (c)(3); 7 CFR 273.9(c)(5); 7 CFR 273.9(c)(5)(i)(A); 7 CFR 273.9(c)(5)(i)(C), (F) and (G) and (ii)(A); 7 CFR 273.9(c)(10); 7 CFR 273.9(c)(15); 7 CFR 273.9(d)(3)(vii); 7 CFR 273.9(d)(1) through (6); 7 CFR 273.11(d)(1), (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal Feb. 1, 1990) \_\_\_\_\_ F. Supp. \_\_\_\_\_ [Dock. No. CV-89-0768]); 7 CFR 273.21(j)(1)(vii)(A); P.L. 101-508, Section 11111(b); 7 U.S.C. Sections 2014(d) and (d)(3)(B); 7 U.S.C. Section 2015(e); 20 U.S.C. Section 1087 uu.; 20 U.S.C. Section 2466d.; 26 U.S.C. Section 32(j)(5); U.S.D.A. Food and Nutrition Service Office, Western Region, Administrative Notice 88-40, Indexed Policy Memo 88-10, dated April 20, 1988; U.S.D.A. Food and Nutrition Service Office, Western Region, Administrative Notice 91-24, dated January 24, 1991; and U.S.D.A. Food and Nutrition Service Administrative Notice 91-30; Waiver Letter WFS-100:FS- 10-6-CA, dated October 2, 1990, United States Department of Agriculture, Food and Nutrition Service; Federal Register, Volume 51, No. 163 (pgs. 30046 and 30047); Food Stamp Question and Answer Distribution System, #502.2-7 and U.S.D.A. Food and Nutrition Service Office, Western Region, Administrative Notices 92-12 and 92-41 with Policy Memo 3-92-06.



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 2-91)

## AGENCY

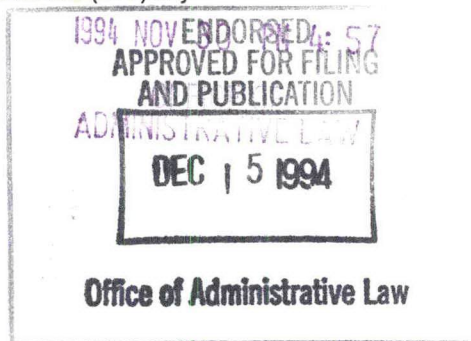
California Department of Social Services

AGENCY FILE NUMBER (If any)

RDB #0594-12

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
	Z94-0621-12	94-11-30-01C	94-0721-03E	

For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

DEC 15 1994

At 3:45 O'clock P.M.  
TONY MILLER, Acting Secretary of StateBy Courto Lomick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Food Stamp Household Concept		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER			
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94, #262		PUBLICATION DATE 7-1-94	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT Section 63-024
SECTIONS AFFECTED	AMEND Section 63-102
	REPEAL

## 2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Chief Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

11/30/94

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.



## UPDATED INFORMATIVE DIGEST

These proposed emergency regulations implement the provisions of federal regulations at 7 CFR 273.1(a)(2)(i)(C) and (D). Federal regulations at 7 CFR 273.1(a)(2)(C) and (D) provide that the term "parent of a minor child(ren)" no longer requires the natural, adopted, or stepchild to be a biological or legal parent of a minor child(ren). He/she has only to be exercising parental control of any child under 18 years of age. Existing food stamp regulations need to be revised in order to comply with federal mandates as indicated in 7 CFR 273.1(a)(2)(C) and (D). The proposed regulations contain revisions which incorporate the federal mandates into state regulations. The revisions also amend terminology used in certain manual sections regarding household concept.

Subsequent to the filing of the emergency regulations on August 1, 1994, Sections 63-402.142(b) and .145(b) were repealed on September 1, 1994 when the Department filed RDB #0594-17. Consequently Sections 63-402.142(b) and .145(b) are not being certified in this rulemaking.

## FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

Current food stamp regulations need to be revised in order to comply with federal mandates as indicated in 7 CFR 273.1(a)(2)(i)(C) and (D). The proposed regulations contain revisions which incorporate the federal mandates into state regulations. The revisions amend terminology used in certain manual sections regarding household concept.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are NecessarySection 63-024Specific Purpose:

The specific purpose of this section is to provide county welfare departments (CWDs) with specific dates by which the provisions in these regulations are to be implemented. By providing this direction, departmental reviewing and/or auditing units can easily determine if a county is out of compliance. These provisions are effective August 1, 1994.

Factual Basis:

This section is necessary to conform with P.L. 100-77, Section 802; and 7 CFR 273.1(a)(2)(i)(C) and (D).

Section 63-102p.(1)Specific Purpose:

The word "adult" has been changed to "individual" wherever it occurred in this section.

Factual Basis:

This amendment is in conformance with Public Law (P.L.) 100-77. This section is necessary to clarify that the person exercising parental control does not have to be an adult. According to the Department of Agriculture Food and Nutrition Service the definition of parental control is an individual responsible, financially or otherwise, for the care of a minor child.

Section 63-402.142(b)Specific Purpose:

This subsection redefines the term "parent of a minor child."

Factual Basis:

This amendment is in conformance with Federal Regulation 7 CFR 273.1(a)(2)(i)(C). The natural, adopted or stepchild is no longer required to be a biological or legal parent of a minor child(ren). Effective 4-1-94, he/she has only to be exercising parental control of any child under 18 years of age.

Section 63-402.145(b)

Specific Purpose:

This section redefines the term "parent of a minor child."

Factual Basis:

This amendment is in conformance with Federal Regulation 7 CFR 273.1(a)(2)(i)(D). A sibling is no longer required to be a biological or legal parent of a minor child(ren). Effective 4-1-94, he/she has only to be exercising parental control of any child under 18 years of age.

c) Identification of Documents Upon Which Department Is Relying

Public Law (P.L.) 100-77, Section 802.  
Parent of a Minor Child, dated February 15, 1994.

d) Testimony and Response

These food stamp regulations were considered at the Department's August 17, 1994 public hearing. No oral testimony was received at the hearing. The Department received a written comment from Los Angeles County Department of Public Social Services (LADPSS). No other comments were received.

The Department's response to LADPSS' comment follows.

Section 63-102p.(1)(B)(c)

Comment:

LADPSS submitted the following comment:

"The language in this Section is inconsistent. Although the term 'individual' is used once, the term 'adult' also continues to be used in the same Section. The regulations should state whether or not the individual exerting parental control must be an adult."

Response:

The Department agrees with LADPSS' comment regarding the inconsistency noted in Section 63-102p. This inadvertent error was corrected when the emergency regulations were filed with the Secretary of State.

e) Local Mandate Statement

These regulations do impose a mandate on local government but not on school districts. There are no state mandated local costs which require reimbursement under the laws of California. These regulations are mandated by the federal government.

f) Statement of Potential Cost Impact on Private Persons or Businesses and of Alternatives Considered

CDSS has determined that there will be no fiscal impact on private persons or businesses, including the ability of California businesses to compete with businesses in other states, because these regulations do not impact private persons or businesses.

CDSS must determine that no alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected persons than the proposed action.

- .1 Beginning August 1, 1994, county welfare departments shall implement the amended provision for all food stamp household applicants.
- .2 For continuing cases and any households entitled to restored benefits, these provisions shall be implemented and appropriate restoration of benefits made upon request by the household, at recertification, when the case is next reviewed, or when the CWD becomes aware that a review is needed, whichever occurs first. Restored benefits are to be provided back to the date of application or April 1, 1994, whichever occurred later.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Public Law (P.L.) 100-77, Section 802; 7 CFR 273.1(a)(2)(i)(C) and (D).

a. through o. (Continued)

p. (1) "Parental Control"

(A) A minor child shall not be considered under the parental control of the individual with whom he/she resides if any one of the following conditions exists:

(a) The minor entered into a valid marriage, whether or not such marriage has terminated by dissolution.

(b) The minor is on active duty with any of the armed forces of the United States of America. (Note: A person who was in the armed forces but was discharged before reaching the age of 18 could still be considered under parental control.)

(c) The minor has been emancipated by a court order.

(B) If none of the above conditions exist then whether or not a minor should be considered under the parental control of the individual with whom he/she resides shall be determined using the following criteria. The eligibility worker shall assess the relative importance of the criteria below to each individual case in determining whether or not parental control exists:

(a) The minor is economically self-supporting and managing his/her own affairs.

(b) The closer a minor is to 18 years the more significant age becomes in the determination of parental control.

(c) The minor is absent from the individual with whom he/she is residing for significant periods of time and comes and goes without the individual's approval. (Continued)

q. through z. (Continued)

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 8 U.S.C.A. Section 1522(e); 42 U.S.C.A. 601, et seq.; and 42 U.S.C.A. 5122; 7 CFR 271.2; 7 CFR 273.1(a)(2)(i)(C) and (D); 7 CFR 273.1(c)(5); 7 CFR 273.11(a)(2)(iii); 7 CFR 273.2, (j), and (j)(4); 7 CFR 273.16(c); 7 CFR 273.21(b); 7 CFR 274.3(a)(2); 7 CFR 2710.2; 45 CFR Part 401; 45 CFR 400.62; Public Law (P.L.) 100-77, Section 802; (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) \_\_\_\_\_ F. Supp. \_\_\_\_\_ [Dock. No. CV-89-0768]); Section 66011, Education Code; Sections 10554 and 18904, Welfare and Institutions Code; and Section 902, Public Law (P.L.) 102-237.

STATE OF CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
**REGULAR**  
 NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

*original*  
 For use by Secretary of State only

STD. 400 (REV. 2-91)

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

0694-19

OAL FILE  
 NUMBERS

NOTICE FILE NUMBER  
 294-0726-13

REGULATORY ACTION NUMBER

94-1114-DIS

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

**APPROVED**  
**DISAPPROVED**

ENDORSED  
 APPROVED FOR FILING  
 AND PUBLICATION 9-19

OFFICE OF  
 ADMINISTRATIVE LAW  
 DEC 9 1994

Office of Administrative Law

NOTICE

REGULATIONS

**FILED**  
 In the office of the Secretary of State  
 of the State of California

DEC 29 1994

At 4:35 O'clock P.M.  
 TONY MILLER, Acting Secretary of State  
 By *Robert L. Cornick*  
 Deputy Secretary of State

**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Independent Adoption Reform Regs.		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER			
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-#31-2		PUBLICATION DATE 8-5-94			

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) Title 22 AND MPP		ADOPT Sections 35094.1, 35094.2, 35094.3 and 35122	
SECTIONS AFFECTED		AMEND See attachment 1	
		REPEAL Sections 35127.1, 35127.2 and 35400	

2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

October 13, 1994 through October 28, 1994

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) January 1, 1995

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Frank R. Vitulli

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

NOV 10 1994

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.



Attachment # 1

Manual of Policies and Procedures (MPP) Sections Amended:

35000	35097
35001	35099
35029	35101
35049	35103
35053	35105
35079	35107
35081	35109
35083	351111
35085	35113
35087	35115
35089	35117
35091	35119
35093	35121
35094	35123
35095✓	35125
35095.1	35126
35095.2	

Amend Section 35000 to read:

35000        DEFINITIONS

35000

(a) (1) through (4) (Continued)

(5) "Adoption Service Provider" means adoption service provider as defined at Family Code Section 8502.

HANDBOOK BEGINS HERE

(A) Family Code Section 8502, in pertinent part, states:

"(a) 'Adoption service provider' means any of the following:

"(1) A licensed private adoption agency.

"(2) An individual who has presented satisfactory evidence to the department that he or she is a licensed clinical social worker who also has a minimum of five years' experience providing professional social work services while employed by a licensed California adoption agency or the department.

"(3) In a state other than California, an adoption agency licensed or otherwise approved under the laws of that state, or an individual who is licensed or otherwise certified as a clinical social worker under the laws of that state:..."

"(b) If, in the case of a birth parent located in California, at least three adoption service providers are not reasonably available, or, in the case of a birth parent located outside of California who has contacted at least three potential adoption service providers and been unsuccessful in obtaining the services of an adoption service provider who is reasonably available and willing to provide services, independent legal counsel for the birth parent may serve as an adoption service provider pursuant to subdivision (e) of Section 8801.5. 'Reasonably available' means that an adoption service provider is all of the following:

"(1) Available within five days for an advisement of rights pursuant to Section 8801.5, or within 24 hours for the signing of the placement agreement pursuant to paragraph (3) of subdivision (b) of Section 8801.3.

"(2) Within 100 miles of the birth mother.

"(3) Available for a cost not exceeding five hundred dollars (\$500) to make an advisement of rights and to witness the signing of the placement agreement.

"(c) Where an attorney acts as an adoption service provider, the fee to make an advisement of rights and to witness the signing of the placement agreement shall not exceed five hundred dollars (\$500)...."

HANDBOOK ENDS HERE

(§6) "Adoptive Parent" means adoptive parent as defined at §1411 Family Code Section 220120/47 8503.

HANDBOOK BEGINS HERE

(A) §1411 Family Code Section 220120/47 8503 reads as follows states: "Adoptive parent" means a person who has been placed with the child of a person who has obtained an order of adoption of a minor child or, in the case of an adult adoption, an adult."

HANDBOOK ENDS HERE

(§7) (continued)

(78) "Agency Adoption" means agency adoption as defined at §1411 Family Code Section 220120/47 8506.

HANDBOOK BEGINS HERE

(A) §1411 Family Code Section 220120/47 8506 reads as follows states: "Agency adoption" means the adoption of a child by a person who is not a party to, or joins in, the adoption petition. "intercountry adoption, in which the department or a licensed adoption agency is a party to, or joins in, the adoption petition."

HANDBOOK ENDS HERE

(§9) (continued)

(§10) "Applicant" means an applicant as defined at §1411 Family Code Section 220120/47 8509.

HANDBOOK BEGINS HERE

(A) §1411 Family Code Section 220120/47 8509 reads as follows states: "Applicant" means a person who has submitted a written application to adopt a child from the department or a licensed adoption agency and who is being considered by the department or agency for the adoptive placement of a child."

HANDBOOK ENDS HERE

(11) "Appropriate Public Authority" means, for the purpose of the ICPC, the state's Interstate Compact Administrator.

(b) (1) "Birth Parent" means a birth parent as defined at Civil Family Code Section 220/20/01 8512.

HANDBOOK BEGINS HERE

(A) Civil Family Code Section 220/20/01 8512 reads as follows states:

"'Birth Parent' means the biological parent or, in the case of a child person previously adopted, the adoptive parent."

HANDBOOK ENDS HERE

(c) (1) "California Agency" means, for the purpose of the ICPC, a CDSS Adoptions district office or a licensed public or private adoption agency.

(12) (Continued)

(3) "CDSS" means the California Department of Social Services or department.

(14) child means child as defined at Civil Code Section 220/20/01

HANDBOOK BEGINS HERE

(14) Civil Code Section 220/20/01 reads as follows:

child and children mean minor child and minor children respectively

HANDBOOK ENDS HERE

(15) For the purposes of intercountry adoption child means a foreign-born, unmarried, unemancipated person under the age of sixteen years.

(24) (Continued)

(25) (Continued)

(6) "CDIB" means Certificate of Degree of Indian Blood.

(27) "Consent to Adoption" means the voluntary written agreement by the birth parent with a specified person to the adoption of the child.

(A) An Independent Adoption Placement Agreement is a type of consent to adoption.

(28) (Continued)

- (d) (1) (Continued)
- (2) "Delegated County Adoption Agency" means delegated county adoption agency as defined at Civil Family Code Section 220/201Y 8515.

HANDBOOK BEGINS HERE

- (A) Civil Family Code Section 220/201Y 8515 reads as follows states:

"'Delegated county adoption agency' means a licensed county adoption agency that has agreed to provide those services described in Article 3 (commencing with Section 224/101Y a licensed county adoption agency that has agreed to provide the services described in Chapter 3 (commencing with Section 8800) of Part 2."

HANDBOOK ENDS HERE

- (3) "Department" means department as defined at Civil Family Code Section 220/201Y 8518.

HANDBOOK BEGINS HERE

- (A) Civil Family Code Section 220/201Y 8518 reads as follows states:  
(Continued)

HANDBOOK ENDS HERE

- (4) (Continued)

(e) Reserved

- (f) (1) (Continued)

HANDBOOK BEGINS HERE

- (A) (Continued)

HANDBOOK ENDS HERE

- (2) "Filing of the Relinquishment Form" means the receipt by the department of a certified copy of a signed, witnessed, acknowledged and date relinquishment form, date and time stamped by the department, which renders the relinquishment binding the department's receipt and acknowledgement of a certified copy of a relinquishment form that has been signed, witnessed, and dated pursuant to Articles 1 and 2 of Subchapter 5 of these regulations.

- (3) through (7) (Continued)

- (8) "Full-Service Adoption Agency" means full-service adoption agency as defined at Civil Family Code Section 220/201Y 8521.

HANDBOOK BEGINS HERE

(A) Civil Family Code Section 220/20/1Y 8521 reads as follows states:

"(a) 'Full-service adoption agency' means any licensed entity engaged in the business of providing adoption services, which does all of the following:

"(1) (Continued)

"(2) (Continued)

"(3) (Continued)

"(4) (Continued)

*Private full-service adoption agencies should be organized and operated on a nonprofit basis. Full-service adoption agencies may provide services to birth parents or prospective adoptive parents pursuant to section 224/30 until January 1, 1994/7*

"(b) Private full-service adoption agencies shall be organized and operated on a nonprofit basis."

*BY services pursuant to Civil Code section 224/30 are located at sections 35237/1 and 35127/2/*

HANDBOOK ENDS HERE

(9) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(g) (Continued)

(h) (Continued)

(i) (1) "ICPC" means Interstate Compact on the Placement of Children.

(2) "ICWA" means Indian Child Welfare Act.

(13) "Independent Adoption" means independent adoption as defined at Civil Family Code Section 220/20/1Y 8524.

HANDBOOK BEGINS HERE

(A) Civil Family Code Section 220/20/1Y 8524 reads as follows states:  
(Continued)

HANDBOOK ENDS HERE

12) *Independent Adoption Replacement Program* means the voluntary alternative procedure within the Independent Adoption Program authorized by Civil Code Section 224150 available to prospective adoptive parents and birth parents choosing independent adoption. This alternative procedure provides for replacement assessment of adoptive parents and replacement advising of birth parents.

(34) (Continued)

(45) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(56) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(67) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(78) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(89) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(910) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(101) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(112) (Continued)

HANDBOOK BEINGS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(123) "Intercountry Adoption" means intercountry adoption as defined at California Family Code Section 220/20/17 8527.

HANDBOOK BEGINS HERE

(A) California Family Code Section 220/20/17 8527 reads as follows states:

"'Intercountry adoption' means the adoption of a foreign-born child for whom federal law makes a special immigration visa available. Intercountry adoption includes completion of the adoption in the child's native country or completion of the adoption in California this state".

HANDBOOK ENDS HERE

(j) Reserved

(k) Reserved

(l) (1) "Licensed Adoption Agency" means licensed adoption agency as defined at California Family Code Section 220/20/17 8530.

HANDBOOK BEGINS HERE

(A) California Family Code Section 220/20/17 8530 reads as follows states:  
(Continued)

HANDBOOK ENDS HERE

(m) (Continued)

(n) (1) "Noncustodial Adoption Agency" means noncustodial adoption agency as defined at California Family Code Section 220/20/17 8533.



HANDBOOK BEGINS HERE

(A) Civil Family Code Section 220/20/17 8533 reads as follows states:

"(a) 'Noncustodial adoption agency' means any licensed entity engaged in the business of providing adoption services, which does all of the following:

"(1) (Continued)

"(2) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved prospective adoptive ~~applicant's~~ parents.

"(3) (Continued)

"(b) Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis." ~~Noncustodial adoption agencies may provide services to birth parents or prospective adoptive parents pursuant to Section 224/30 until January 1, 1994/~~

~~(B) Services pursuant to Section 224/30 are located at Sections 35127/1 and 35127/2/~~

HANDBOOK ENDS HERE

(2) (Continued)

(o) Reserved

(p) (1) (Continued)

(2) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(3) (Continued)

(4) "Party State" means, for the purpose of the ICPC, a state which is a member of the Interstate Compact on the Placement of Children.

(45) "Personal Knowledge" means personal knowledge as defined at Civil Family Code Section 220/20/17 8801(b).

HANDBOOK BEGINS HERE

- (A) Civil Family Code Section 220/20/AY 8801(b) reads as follows states:

"'Personal knowledge' includes, but is not limited to substantially correct knowledge of all of the following regarding the prospective adoptive parents: their full legal name, age, religion, race or ethnicity, employment, whether other children or adults reside in their home, any health conditions curtailing their normal daily activities or reducing their normal life expectancy, and their general area of residence or, upon request, their address, as used in this section includes, but is not limited to, substantially correct knowledge of all of the following regarding the prospective adoptive parents: their full legal names, ages, religion, race or ethnicity, length of current marriage and number of previous marriages, employment, whether other children or adults reside in their home, whether there are other children who do not reside in their home and the child support obligation for these children and any failure to meet these obligations, any health conditions curtailing their normal daily activities or reducing their normal life expectancies, any convictions for crimes other than minor traffic violations, any removals of children from their care due to child abuse or neglect, and their general area of residence or, upon request, their address."

HANDBOOK ENDS HERE

1. Substantially correct means accurate in the agency's judgment.

HANDBOOK ENDS HERE

- 13Y "Petitioner" means petitioner as defined at Civil Code Section 220/20/AY/

HANDBOOK BEGINS HERE

- 14Y "Petitioner" means a prospective adoptive parent who has filed an adoption petition with the superior court pursuant to the provisions of this chapter in the county within which he or she resides/

HANDBOOK ENDS HERE

- (6) "Place for Adoption" means place for adoption as defined at Civil Family Code Section 220/20/AY 8539.

HANDBOOK BEGINS HERE

- (A) Civil Family Code Section 220/20/AY 8539 in pertinent part, reads as follows states:

"'Place for adoption' means, in the case of an independent adoption, the selection of a prospective adoptive parent or parents for a child by the birth parent or parents and the completion of an adoptive placement agreement on a form prescribed by the department by the birth parent or parents placing the child with prospective adoptive parents...."

HANDBOOK ENDS HERE

(7) "Placement" means, for the purpose of the ICPC, the arrangement for the care of a child in a family that has been studied and approved for adoption or has had a preplacement interview completed by a licensed adoption agency.

(78) "Presumed Father" means a father as defined at Civil Family Code Section 7004 7611.

HANDBOOK BEGINS HERE

(A) ~~A person who~~ The content of Civil Family Code Section 7004 7611 is located at Section 35029(~~cd~~) (12).

HANDBOOK ENDS HERE

(89) "Prospective Adoptive Parent" means prospective adoptive parent as defined at Civil Family Code Section 220/20/pY 8542.

HANDBOOK BEGINS HERE

(A) Civil Family Code Section 220/20/pY 8542 reads as follows states:

"'Prospective adoptive parent' means a person who has filed or intends to file a petition to adopt a child who has been or who is to be placed in his or her physical care/ a person who has filed or intends to file a petition under Part 2 (commencing with Section 8600) to adopt a child who has been or who is to be placed in the person's physical care or a petition under Part 3 (commencing with Section 9300) to adopt an adult."

HANDBOOK ENDS HERE

(q) Reserved

(r) (1) "Receiving Agency in the Independent Adoptions Program" means, for the purpose of the ICPC, the person(s) who is designated to receive a child from another party state with the intention of filing a petition to adopt that child.

(2) "Receiving Agency in the Relinquishment Adoptions Program" means, for the purpose of the ICPC, a licensed adoption agency or CDSS Adoptions district office that is designated to receive any child from another party state for the purpose of adoption.

(13) (Continued)

(24) (Continued)

(35) (Continued)

(46) (Continued)

(57) (Continued)

(s) (1) (Continued)

HANDBOOK BEGINS HERE

(A) Title 25 United States Code, Section 1903(11), in pertinent part,  
reads as follows states:

"'\_Secretary/' means the Secretary of the Interior..."

HANDBOOK ENDS HERE

(2) "Sending Agency in the Independent Adoptions Program" means, for the purpose of the ICPC, the birth parent(s) who sends, brings, or causes to be sent or brought any child to another party state for the purpose of adoption.

(3) "Sending Agency in the Relinquishment Adoptions Program" means, for the purpose of the ICPC, a licensed adoption agency or CDSS Adoptions district office that sends, brings, or causes to be sent or brought any child to another party state for the purpose of adoption.

(4) "Sending State in the Independent Adoptions Program" means, for the purpose of the ICPC, the state of residence of the birth parent placing a child for adoption in California. The child being placed is deemed to have been brought into California from the sending state regardless of the child's place of birth, including California.

(25) (Continued)

(36) (Continued)

(47) "Special Needs Child" means special needs child as defined at California Family Code Section 220/204/ 8545.

HANDBOOK BEGINS HERE

(A) California Family Code Section 220/204/ 8545 reads as follows states:

"'Special needs child' means a child whose adoption without financial assistance would be unlikely because of adverse parental background, ethnic background, race, color, language, membership in a sibling group which that should remain intact, mental, physical, medical, or emotional handicaps, or age of three years or more."

(B) (Continued)

HANDBOOK ENDS HERE

(58) (Continued)

(t) Reserved

(u) Reserved

(v) Reserved

(w) (1) (Continued)

(x) Reserved

(y) Reserved

(z) Reserved

Authority Cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 222/26/AY/ 224/30/AY/ 224/70/AY/ 226/11/ and 226/33/AY/ 07471 8608, 8621, and 8901, Family Code.

Reference: Sections 10800, 16000, 16100, 16115, 16118, 16119, 16120, 16120.1 and 16121, Welfare and Institutions Code; Sections 28/  
~~02/ 211/ 220/20/dY/ 220/20/bY/ 220/20/cY/ 220/20/dY/ 220/20/eY/~~  
~~220/20/fY/ 220/20/gY/ 220/20/hY/ 220/20/iY/ 220/20/jY/~~  
~~220/20/kY/ 220/20/lY/ 220/20/mY/ 220/20/nY/ 220/20/oY/~~  
~~220/20/pY/ 220/20/qY/ 222/28/dY/ 224/70/dY/ 228/38/dY/ 229/30/~~  
~~232/ 239/ 7001/ 7002/ 7003/ 7004/ dhd 7017/ qivil 3014,~~ 6500,  
7002, 7601, 7602, 7610, 7611, 7612, 7660, 7661, 7662, 7663,  
7664, 7665, 7666, 7669, 7802, 7807, 7808, 7820, 7821, 7822,  
7823, 7824, 7825, 7826, 7827, 7828, 7829, 7890, 7892, 7893,  
8503, 8506, 8509, 8512, 8515, 8518, 8521, 8524, 8527, 8530,  
8533, 8539, 8542, 8545, 8600, 8706, 8801(b), 8817, 8909, and  
9202, Family Code; Section 1502, Health and Safety Code;  
Section 13290, Government Code; 8 USC 1101(b)(1)(F); 25 USC  
1901, 1903(2), (3), (4), (5), (6), (8), (9), (11), and (12); 42  
USC 673 and 675; Section 11105(a)(2), Penal Code; and 28 CFR  
Section 16.31; and 45 CFR 1356.41(i).

Amend Section 35001 to read:

35001        FORMS

35001

(a) (1) through (4) (Continued)

(5) "AD 1A" (1-95) means the form entitled, "Consent to Adoption by Parent(s) in California."

(6) "AD 1C" (1-95) means the form entitled, "Consent to Adoption by Parent(s) Outside California."

(7) "AD 1F" (1-95) means the form entitled, "Consent to Adoption by Parent(s) Outside California in Armed Forces."

(8) "AD 20" (7-84) means the form entitled, "Refusal to Give Consent to Adoption."

(9) "AD 42R" (7-93) means the form entitled, "Individual Record-Relinquishment Adoptions."

(§10) (Continued)

(§11) (Continued)

(12) "AD 90" (6-91) means the form entitled, "Supporting Information for Issuance of Department of Social Services Waiver and Acknowledgment."

(713) "AD 100" (12-93) (Continued)

(14) "AD 165" (1-95) means the form entitled, "Consent to Adoption by Parent in California When Legal Father Denies He is the Natural Father."

(15) "AD 166" (1-95) means the form entitled, "Consent to Adoption by Father Outside California."

(§16) (Continued)

(§17) (Continued)

(108) (Continued)

(719) (Continued)

(20) "AD 508 (3-82) means the form entitled, Rescission Request/Rescission of Relinquishment."

(721) (Continued)

(722) (Continued)

- (23) "AD 551A" (5-91) means the form entitled, "Notification of Procedure in Lieu of Signing Relinquishment Waiver or Denial."
- (24) "AD 558" (3-92) means the form entitled, "Notice of Placement."
- (25) "AD 580" (5-81) means the form entitled, "Notice of Removal of Child from Adoptive Home."
- (1426) (Continued)
- (1527) (Continued)
- (1628) (Continued)
- (1729) (Continued)
- (1830) (Continued)
- (1931) (Continued)
- (2032) (Continued)
- (2133) (Continued)
- (34) "AD 594" (1-95) means the form entitled, "Consent to Adoption by Alleged Natural Father."
- (35) "AD 830" (7-87) means the form entitled, "Summary Claim for Reimbursement Private Adoption Agency Reimbursement Program."
- (36) "AD 831" (7-87) means the form entitled, "Private Adoption Agency Cost Justification for Adoptive Placement."
- (37) "AD 842" (1-95) means the form entitled, "Consent to Adoptive Placement by Alleged Natural Father (Outside California in Armed Forces)."
- (38) (Reserved)
- (39) (Reserved)
- (40) "AD 859" (1-95) means the form entitled, "Consent to Adoption of Indian Child by Parent(s) in or out of California."
- (41) "AD 860" (1-95) means the form entitled, "Consent to Adoption of Indian Child by Presumed Father in or out of California."
- (42) "AD 861" (1-95) means the form entitled, "Consent to Adoption of Indian Child by Alleged Natural Father (In or Outside of California)."
- (2243) (Continued)
- (2344) (Continued)

(245) (Continued)

(2546) (Continued)

(2647) (Continued)

(2748) (Continued)

(2849) (Continued)

(2950) (Continued)

(51) "AD 880" (7-86) means the form entitled, "Declaration of Mother."

(3052) "AD 887" (1991-95) (Continued)

(3153) "AD 887A" (1991-95) (Continued)

(3254) "AD 887B" (1991-95) (Continued)

(3355) (Continued)

(3456) (Continued)

(357) (Continued)

(3658) (Continued)

(3759) "AD 900" (1991-95) (Continued)

(3860) "AD 900A" (1991-95) (Continued)

(3961) "AD 900B" (1991-95) (Continued)

(4062) (Continued)

(4163) (Continued)

(4264) (Continued)

(4365) (Continued)

(66) "AD 908" (1-94) means the form entitled, "Adoptions Information Act Statement."

(67) "AD 909" (8-88) means the form entitled, "Photolisting Data Sheet."

*444 AD 911 1991 means the form entitled, "Confirmation of Advice"*

(4568) (Continued)

(469) (Continued)

(470) (Continued)



- (71) "AD 924" (1-95) means the form entitled, "Independent Adoption Placement Agreement."
- (72) "AD 925" (1-95) means the form entitled, "Independent Adoption Placement Agreement - Indian Child."
- (73) "AD 926" (1-95) means the form entitled, "Statement of Understanding - Independent Adoption Program (Parent Who Signs Independent Adoption Placement Agreement)."
- (74) "AD 927" (1-95) means the form entitled, "Statement of Understanding - Independent Adoption Program (Parent of Indian Child Who Signs Independent Adoption Placement Agreement)."
- (75) "AD 928" (1-95) means the form entitled, "Revocation of Consent - Independent Adoption Program."
- (76) "AD 929" (1-95) means the form entitled, "Waiver of Right to Revoke Consent - Independent Adoption Program."
- (77) "AD 930" (1-95) means the form entitled, "Independent Adoption Placement Agreement Transmittal."
- (78) "AD 4310" (1-93) means the form entitled, "Adoption Programs Notice Required by Information Practices Act."
- (79) "AD 4311" (1-87) means the form entitled, "Information on American Indian Child (Adoption Program)."
- (80) "AD 4317" (3-82) means the form entitled, "Revocation of Relinquishment."

(481) (Continued)

(b) (1) "BID 7" (5-90) means the fingerprint card.

(c) Reserved

(d) Reserved

(e) Reserved

(f) (Continued)

(g) Reserved

(h) Reserved

(i) (1) "ICPC 100A" (10-91) means the form entitled, "Interstate Compact Application Request to Place Child."

(2) "ICPC 100B" (7-92) means the form entitled, "Interstate Compact Report on Child's Placement Status."

(j) - (z) Reserved.

HANDBOOK BEGINS

AD, AAP, and FC forms are available through the Department's Forms Warehouse at the following address:

California Department of Social Services Warehouse  
Publications Unit  
6150 27th Street - P.O. Box 22429  
Sacramento, CA 95822-3799

For forms in languages other than English, contact the Adoptions Branch's Forms Coordinator at (916) 323-0469.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 ~~and~~, 10554, 16118, and 16120 Welfare and Institutions Code; and Section 8621, Family Code.

Reference: Sections ~~722/10/ 722/20/ 724/02 and 724/70/ Civil Code/ Section~~ 16105, 16118, and 16120.05, Welfare and Institutions Code; Sections 8500 et seq., 8600 et seq., 8700 et seq., 8800 et seq., 8900 et seq., 9100 et seq., and 9200 et seq., Family Code.

Amend Section 35029 to read:

35029 INDEPENDENT ADOPTIONS

35029

(a) (Reserved)

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) The agency shall ensure that the legal relationship that exists between the child and his/ or her parents, if living, has been terminated prior to the issuance of a final decree of adoption.

(c) (Continued)

(1) In the absence of a signed consent, parental rights shall be terminated by legal action pursuant to Civil Family Code Sections 721/20 of 722 7820 et seq., 8604, 8605, or 8606.

(d) When there is more than one presumed father, the rights of all presumed fathers shall be terminated either by consent to adoption of the child or by legal action pursuant to Civil Family Code Sections 7820 et seq., 8604, or 8606 721/20 of 722.

HANDBOOK BEGINS HERE

(1) Under Civil Code Section 7004(2) a conclusively presumed father is as defined at Evidence Family Code Sections 7540 and 7541.

Evidence Code 621/ The issue of a wife cohabiting with her husband who is not impotent or sterile, is conclusively presumed to be a child of the marriage, unless the court finds that the conclusions of all experts, as disclosed by the evidence based upon blood tests performed pursuant to Chapter 2 (commencing Section 800) of Division 7 of the Evidence Code are that the husband is not the father of the child./

(A) Family Code Section 7540 states:

"Except as provided in Section 7541, the child of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage."

(B) Family Code Section 7541 states:

"(a) Notwithstanding Section 7540, if the court finds that the conclusions of all the experts, as disclosed by the evidence based on blood tests performed pursuant to Chapter 2 (commencing with Section 7550), are that the husband is not the father of the child, the question of paternity of the husband shall be resolved accordingly."

"(b) The notice of motion for blood tests under this section may be filed not later than two years from the child's date of birth by the husband, or for the purposes of establishing paternity by the presumed father or the child through or by the child's guardian ad litem. As used in this subdivision, 'presumed father' has the meaning given in Sections 7611 and 7612.

"(c) The notice of motion for blood tests under this section may be filed by the mother of the child not later than two years from the child's date of birth if the child's biological father has filed an affidavit with the court acknowledging paternity of the child.

"(d) The notice of motion for blood tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for placing the issue of paternity before the court.

"(e) Subdivision (a) does not apply in any of the following cases:

"(1) A case which reached final judgment of paternity on or before September 30, 1980.

"(2) A case coming within Section 7613.

"(3) A case in which the wife, with the consent of the husband, conceived by means of a surgical procedure."

- (2) ~~Under Civil Code Section 7004(a)(1)(4) a~~ A man is rebuttably presumed to be the natural father of the child if he meets any of the ~~following~~ criteria of Family Code Section 7611/.

(A) Family Code Section 7611 states:

"A man is presumed to be the natural father of a child if he meets the conditions provided in Chapter I (commencing with Section 7540) of Part 2 or in any of the following subdivisions:

"(1) (a) He and the child's natural mother are ~~to~~ or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a ~~decree~~ judgment of separation is entered by a court.

"(2) (b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is/ or could be declared invalid/, and either of the following is true:

"(3) (1) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or

"(2) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

"(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is/ or could be/ declared invalid, and either of the following is true:

"(1) With his consent, he is named as the child's father on the child's birth certificate; or

"(2) He is obligated to support the child under a written voluntary promise or by court order.

"(d) He receives the child into his home and openly holds out the child as his natural child.

"(e) If the child was born and resides in a nation with which the United States engages in an Orderly Departure Program or successor program, he acknowledges that he is the child's father in a declaration under penalty of perjury, as specified in Section 2015.5 of the Code of Civil Procedure. This subdivision shall remain in effect only until January 1, 1997, and on that date shall become inoperative."

(3) Family Code Section 7820 states:

"A proceeding may be brought under this part for the purpose of having a child under the age of 18 years declared free from the custody and control of either or both parents if the child comes within any of the descriptions set out in this chapter."

(4) Family Code Section 8604 states:

"(a) Except as provided in subdivision (b) a child having a presumed father under Section 7611 may not be adopted without the consent of the child's birth parents, if living.

"(b) If one birth parent has been awarded custody by judicial order, or has custody by agreement of both parents, and the other birth parent for a period of one year willfully fails to communicate with and to pay for the care, support, and education of the child when able to do so, then the birth parent having sole custody may consent to the adoption, but only after the birth parent not having custody has been served with a copy of a citation in the manner provided by law for the service of a summons in a civil action that requires the birth parent not having custody to appear at the time and place set for the appearance in court under Section 8718, 8823, 8913, or 9007.

"(c) Failure of a birth parent to pay for the care, support, and education of the child for the period of one year or failure of a birth parent to communicate with the child for the period of one year is prima facie evidence that the failure was willful and without lawful excuse."

(5) Family Code Section 8605 states:

"A child not having a presumed father under Section 7611 may not be adopted without the consent of the child's mother, if living.

(6) Family Code Section 8606 states:

"Notwithstanding Sections 8604 and 8605, the consent of a birth parent is not necessary in the following cases:

"(a) Where the birth parent has been judicially deprived of the custody and control of the child (1) by a court order declaring the child to be free from the custody and control of either or both birth parents pursuant to Part 4 (commencing with Section 7800) of Division 12 of this code, or Section 366.25 or 366.26 of the Welfare and Institutions Code, or (2) by a similar order of a court of another jurisdiction, pursuant to a law of that jurisdiction authorizing the order.

"(b) Where the birth parent has, in a judicial proceeding in another jurisdiction, voluntarily surrendered the right to the custody and control of the child pursuant to a law of that jurisdiction providing for the surrender.

"(c) Where the birth parent has deserted the child without provision for identification of the child.

"(d) Where the birth parent has relinquished the child for adoption as provided in Section 8700.

"(e) Where the birth parent has relinquished the child for adoption to a licensed or authorized child-placing agency in another jurisdiction pursuant to the law of that jurisdiction."

HANDBOOK ENDS HERE

- (e) The parental rights of all alleged natural fathers shall be terminated prior to the adoption of the child through court action or notification in accordance with ~~01711~~ Family Code Sections 7017 7662 and 7666 or by the alleged natural father's signing a consent, a waiver of further notice of the adoption proceedings, or a denial of paternity.

HANDBOOK BEGINS HERE

(1) Family Code Section 7662 states:

"If a mother relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child who does not have (1) a presumed father under Section 7611 or (2) a father as to whom the child is a legitimate child under the law of this state or under the law of another jurisdiction, or if a child otherwise becomes the subject of an

adoption proceeding and the alleged father, if any, has not, in writing, denied paternity, waived his right to notice, or voluntarily relinquished for or consented to the adoption, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition to terminate the parental rights of the father, unless either of the following occurs:

"(a) The father's relationship to the child has been previously terminated or determined not to exist by a court.

"(b) The father has been served as prescribed in Section 7666 with a written notice alleging that he is or could be the natural father of the child to be adopted or placed for adoption and has failed to bring an action for the purpose of declaring the existence of the father and child relationship pursuant to subdivision (c) of Section 7630 within 30 days of service of the notice or the birth of the child, whichever is later."

(2) Family Code Section 7666 states:

"(a) Except as provided in subdivision (b), notice of the proceeding shall be given to every person identified as the natural father or a possible natural father in accordance with the Code of Civil Procedure for the service of process in a civil action in this state, except that publication or posting of the notice of the proceeding is not required. Proof of giving the notice shall be filed with the court before the petition is heard.

"(b) If a person identified as the natural father or possible natural father cannot be located or his whereabouts is unknown or cannot be ascertained, the court may issue an order dispensing with notice to that person."

HANDBOOK ENDS HERE

(f) (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Sections 221/20/ 221/70/ 224/82/ 224/70/ 232/ 7004/ 7008/ and 7017/ 1183, Civil Code; Sections 7540, 7541, 7820 et seq., 8604, 8605, and 8606, Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35049 to read:

35049 RELEASE OF INFORMATION FROM AN ADOPTION CASE RECORD

35049

(a) (Reserved)

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

- (1) The agency shall disclose information to an adoptee or the child or grandchild of an adoptee pursuant to Civil Code Section 1798.24(r).

HANDBOOK BEGINS HERE

- (A) Civil Code Section 1798.24(r) ~~reads as follows~~, in pertinent part, states:

~~"Civil Code Section 1798.24/~~ No agency may disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the disclosure of the information is:...

~~"(g)~~ To an adopted person and is limited to general background information pertaining to the adopted person's natural parents, provided that the information does not include or reveal the identity of the natural parents."

"(r) To a child or a grandchild of an adopted person and disclosure is limited to medically necessary information pertaining to the adopted person's natural parents. However, the information, or the process for obtaining the information, shall not include or reveal the identity of the natural parents...."

HANDBOOK ENDS HERE

- ~~(2) The agency shall disclose medically necessary information pertaining to an adoptee's birth parents to the child or grandchild of an adoptee.~~

- ~~(A) The agency shall not include or disclose the identity of the adoptee's birth parent or parents in information provided under this section.~~

HANDBOOK BEGINS HERE

(2) (Continued)

HANDBOOK ENDS HERE



(A) 01411 Family Code Section 229100 9204, in pertinent part, reads states:

"(a) ... if an adult adoptee and his or her the adult adoptee's birth parents have each filed a written consent with the department or the licensed adoption agency, the department or licensed adoption agency may arrange for contact between those persons. Neither the department nor a licensed adoption agency may solicit, directly or indirectly, the execution of such a written consent.

"(b) The written consent authorized by this section shall be in a form prescribed by the department."

[illegible]

HANDBOOK ENDS HERE

Authority cited: Section 1798.24, Civil Code; Section 8621, Family Code; Sections 10553, 10554, and 10850(d), Welfare and Institutions Code.

Reference: Section 10850(d), Welfare and Institutions Code; Section 9204, Family Code; Sections 229180 and 1798.24(f) (g) and (r), Civil Code; and 25 U/S/C/ 1901, et seq.

Amend Section 35053 to read:

35053 DISCLOSING INFORMATION TO THE ADOPTEE

35053

(a) (Reserved)

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

- (b) The agency shall disclose to the adoptee upon his/ or her request the name and most current address of a birth parent of an adoptee whose relinquishment for or consent to adoption was signed on or after January 1, 1984, in accordance with the provisions of Chapter Family Code Section 229/40/2/ 9203.

HANDBOOK BEGINS HERE

- (1) Chapter Family Code Section 229/40/2/ 9203, in pertinent part, reads states:

"(a) The department or a licensed adoption agency shall/ do the following:

"(1) Upon request of a person who has been adopted pursuant to this chapter part and who has attained the age of 21 years, disclose the identity of the person's birth parent or parents of the person and the and their most current address of the birth parent or parents as shown in the records of the department or licensed adoption agency, if the birth parent or parents have indicated consent to the disclosure in writing; and (2) upon request of the birth parent of a person who has been adopted pursuant to this chapter part and who has attained the age of 21 years, disclose the adopted name of the adoptee and his of her the adoptee's most current address as shown in the records of the department or licensed adoption agency, if the adult adoptee has indicated in writing, pursuant to the registration program developed by the department, that he of she the adult adoptee wishes his of her the adult adoptee's name and address to be disclosed.

"(2) The department of licensed adoption agency also shall disclose the identity of a birth parent and his of her the birth parent's most current address as shown in the records of the department or licensed adoption agency upon the request of the adoptive parent of a person under the age of 21 years who has been adopted pursuant to this chapter part, upon the finding by the department or licensed adoption agency that a medical necessity or other extraordinary circumstances justify the disclosure.///

"(b) The department shall prescribe the form of the request required by this section...

"(c) This subdivision (a) shall is not be applicable if a birth parent or an adoptee has indicated that he or she does not wish his or her name or address to be disclosed..."

"(i) This section applies only to adoptions in which the relinquishment for or consent to adoption was signed on or after January 1, 1984."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, and 10850(d), Welfare and Institutions Code; and Sections 8621 and 9203, Family Code.

Reference: Section ~~229/40/d/~~ Civil 9203, Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35079 to read:

35079 INVESTIGATION OF PETITION

35079

(a) (Reserved)

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

- (b) In an independent adoption, the agency shall investigate the adoption after the petition has been filed and file a court report recommending whether to grant the petition to adopt in accordance with Civil Family Code Sections 220/20/AY/ 220/20/AY/ 224/40/ 224/42/ 224/44/ and 224/50 8539, 8801(b), 8806, 8807, and 8808.

HANDBOOK BEGINS HERE

*The relevant portions of Civil Code Sections 220/20/AY/ 220/20/AY/ 224/40/ 224/42/ 224/44/ and 224/50 read as follows:*

- (1) The content of Civil Family Code Section 220/20/AY 8801(b) is located at Section 35000(p) (45) (A).
- (2) The content of Civil Family Code Section 220/20/AY 8539 is located at Section 35000(p) (6) (A).
- (3) Civil Family Code Section 224/40 8806 states:

"The department or delegated county adoption agency shall accept the consent of the birth parents to the adoption of the child by the petitioners and, before filing its report with the court, shall ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child." It shall be the duty of the department or of the delegated county adoption agency to accept the consent of the birth parents to the adoption of the child by the petitioners and to ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child prior to filing its report with the court.

- (4) Civil Family Code Section 224/42 8807 states:

"(a) Except as provided in subdivisions (b) and (c), within 180 days after the filing of the petition, the department or delegated county adoption agency shall investigate the proposed independent adoption and submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition.

"(b) In a case where the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption, the report shall be filed immediately.

"(c) In its discretion, the court may allow additional time for the filing of the report, after at least five days' notice to the petitioner or petitioners and an opportunity for the petitioner or petitioners to be heard with respect to the request for additional time." It shall be the duty of the department or the delegated county adoption agency to investigate the proposed independent adoption and to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition. In those cases in which the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption, the report shall be filed immediately. The court may allow such additional time for the filing of the reports as in its discretion it may see fit, after at least five days' notice to the petitioner or petitioners and opportunity for the petitioner or petitioners to be heard with respect to the request for additional time."

- (5) California Family Code Section 224/44 8808, in pertinent part, states:

"The department or a delegated county adoption agency shall interview the petitioners and all persons from whom consent is required and whose addresses are known as soon as possible and, in the case of residents of California this state, within 45 working days, excluding legal holidays, after the filing of the adoption petition. In order to facilitate these interviews, at the same time the petition is filed, the petitioners shall file with the district office of the department or with the delegated county adoption agency responsible for the investigation of the adoption, a copy of the petition together with the names, addresses, and telephone numbers of all parties to be interviewed, if known. The interview with the placing parent or parents shall include, but not be limited to, discussion of any concerns or problems that the parent has with the placement and, if the placing parent was not interviewed as provided in Section 8801.7, the content required in that interview. At the interview, the agency shall give the parent the opportunity to sign either a statement revoking the consent, or a waiver of the right to revoke consent, as provided in Section 8814.5...."

- (A) Family Code Section 8801.7, in pertinent part, states:

"(a) ... The interview... shall include a consideration of any concerns or problems the birth parent has with the placement, a advisement of the rights of the birth parent, and the taking of the health and social history of the birth parent, if not taken previously."

16) Civil Code Section 224/30(a)/ Notwithstanding the time limits of Section 224/44/ if the person to be interviewed has been advised as provided in subdivision (b) and if there is no serious question about the suitability of the prospective adoptive family as provided in subdivision (c)/ the department or a delegated county adoption agency shall interview at the department or agency office any person willing to be interviewed from whom consent is required/ within 10 working days of receiving a copy of the filed adoption petition and documentation that all of the following conditions have been met/

11) The person from whom consent is required has been advised pursuant to subdivision (b)/

12) There is no serious question about the suitability of the prospective adoptive family as provided in subdivision (c)/

13) The department or the agency has received the name/ address/ and phone number of the person to be interviewed and the complete report of the assessment of the prospective adoptive family/

The department or the licensed county adoption agency may take the consent of the person to the adoption at this interview or subsequently//

17) Civil Code Section 224/30(e)/ No licensed private adoption agency is required to provide the advice and assessment services specified in subdivisions (b) and (c)/ However/ if such an agency elects to provide these services/ it shall provide both services/ There is no requirement that prospective adoptive parents and birth parents use the same adoption agency for these services/ If the agency has a policy that allows it to provide services only to members of specific groups/ this policy shall be disclosed to families prior to the beginning of the assessment process//

(86) (Continued)

HANDBOOK ENDS HERE

(c) (Continued)

Authority Cited: Sections 10553/ and 10554, Welfare and Institutions Code; Section 8621, Family Code/ and Section 224/30(h)/ Civil Code.

Reference: Sections 220/20(h)/ 220/20(i)/ 224/40/ 224/42/ 224/44/ and 224/30/ Civil 8539, 8801(b), 8806, 8807, and 8808 Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35081 to read:

35081      ASSESSMENT OF PETITIONERS

35081

(a) The agency shall ~~make a written assessment of~~ assess the adoptive petitioners to determine their suitability as adoptive parents.

(1) (Continued)

(2) The assessment shall be documented in the adoption case record.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 8621, Family Code.

Reference: Sections ~~224/40/ 224/42 and 224/44/ Civil~~ 8806, 8807, and 8808, Family Code.

Amend Section 35083 to read:

35083      ASSESSMENT INTERVIEWS    (Continued)

35083

Authority Cited:   Sections 10553 and 10554, Welfare and Institutions Code and  
                         Section 8621, Family Code.

Reference:        Sections ~~224/40/~~ ~~224/42/~~ ~~and~~ ~~224/44/~~ ~~Civil~~ 8806, 8807, and  
                         8808, Family Code.



Amend Section 35085 to read:

35085 INFORMATION TO PETITIONERS

35085

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

- (1) Approximate time it may take to complete each stage of the adoption process.
- (2) Statutory and regulatory requirements for adoption including confidentiality of adoption records.
- (3) The provisions of ~~Civil~~ Family Code Section ~~224.11~~ 8803 and Penal Code Section 280 regarding the concealment of a child.

HANDBOOK BEGINS HERE

(A) Family Code Section 8803 states:

"(a) During the pendency of an adoption proceeding:

"(1) The child proposed to be adopted may not be concealed within the county in which the adoption proceeding is pending.

"(2) The child may not be removed from the county in which the adoption proceeding is pending unless the petitioners or other interested persons first obtain permission for the removal from the court, after giving advance written notice of intent to obtain the court's permission to the department or delegated county adoption agency responsible for the investigation of the proposed adoption. Upon proof of giving notice, permission may be granted by the court if, within a period of 15 days after the date of giving notice, no objections are filed with the court by the department or delegated county adoption agency. If the department or delegated county adoption agency files objections within the 15-day period, upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the party or parties requesting permission for the removal reasonable notice of the hearing by certified mail, return receipt requested, to the address of each as shown in the records of the adoption proceeding. Upon a finding that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to any limitations that appear to be in the child's best interest.

"(b) This section does not apply in any of the following situations:

"(1) Where the child is absent for a period of not more than 30 days from the county in which the adoption proceeding is pending, unless a notice of recommendation of denial of petition has been personally served on the petitioners or the court has issued an order prohibiting the child's removal from the county pending consideration of any of the following:

"(A) The suitability of the petitioners.

"(B) The care provided the child.

"(C) The availability of the legally required consents to the adoption.

"(2) Where the child has been returned to and remains in the custody and control of the child's birth parent or parents.

"(c) A violation of this section is a violation of Section 280 of the Penal Code.

"(d) Neither this section nor Section 280 of the Penal Code may be construed to render lawful any act that is unlawful under any other applicable law."

Civil Code Section 224.77 reads as follows:

"(a) During the pendency of an adoption proceeding, the child proposed to be adopted shall not be concealed within the county in which the adoption is pending, and shall not be removed from that county, unless the petitioners or other interested persons first obtain permission for the removal from the court after giving advance written notice of intent to obtain the court's permission to the department or to the delegated county adoption agency responsible for the investigation of the proposed adoption. Upon proof of the giving of the notice, permission may be granted by the court if, within a period of 15 days from and after the date of the giving of the notice, no objections have been filed with the court by the department or the delegated county adoption agency. If objections are filed within that period by the department or the delegated county adoption agency, upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the party or parties requesting permission for the removal reasonable notice of the hearing by certified mail, return receipt requested, to the address of each as shown in the records of the adoption proceeding. Upon a find that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to such limitations as appear to be in the best interest of the child.

THIS SECTION DOES NOT APPLY IN ANY OF THE FOLLOWING SITUATIONS:

(1) WHEN THE CHILD IS ABSENT FOR A PERIOD OF NOT MORE THAN 30 DAYS FROM THE COUNTY IN WHICH THE ADOPTION PROCEEDING IS PENDING, PROVIDED THAT A NOTICE OF RECOMMENDATION OF DENIAL OF PETITION HAS NOT BEEN PERSONALLY SERVED ON THE PETITIONERS OF THE COURT HAS NOT ISSUED AN ORDER PROHIBITING THE REMOVAL OF THE CHILD FROM THE COUNTY PENDING CONSIDERATION OF ANY OF THE FOLLOWING:

(A) THE AVAILABILITY OF THE PETITIONERS;

(B) THE CARE PROVIDED THE CHILD;

(C) THE AVAILABILITY OF THE LEGALLY REQUIRED CONSENTS TO THE ADOPTION;

(D) A VIOLATION OF THIS SECTION CONSTITUTES A VIOLATION OF SECTION 280 OF THE PENAL CODE;

(E) NEITHER THIS SECTION NOR SECTION 280 OF THE PENAL CODE SHALL BE CONSTRUED TO RENDER LAWFUL ANY ACT WHICH IS UNLAWFUL UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

(B) (Continued)

HANDBOOK ENDS HERE

- (4) The agency shall inform the petitioners of the law's requirement to file a report with the court on all expenditures paid by them or on their behalf in connection with the birth, placement, and adoption of the child in accordance with CIVIL Family Code Section 221/30 8610.

HANDBOOK BEGINS HERE

(A) Family Code Section 8610 states:

"(a) The petitioners in a proceeding for adoption of a child shall file with the court a full accounting report of all disbursements of anything of value made or agreed to be made by them or on their behalf in connection with the birth of the child, the placement of the child with the petitioners, any medical or hospital care received by the child's birth mother or by the child in connection with the child's birth, any other expenses of either birth parent, or the adoption. The accounting report shall be made under penalty of perjury and shall be submitted to the court on or before the date set for the hearing on the adoption petition, unless the court grants an extension of time.

(5) The agency shall inform the petitioners of the provisions of 22A/173 8818. Family Code Section 22A/173 8818.

# HANDBOOK ENDS HERE

The following provisions of the Family Code shall be amended to read as follows:

Section 22A/173 8818 shall be amended to read as follows:

The following provisions of the Family Code shall be amended to read as follows:

"(c) This section does not apply to an adoption by a stepparent where one birth parent or adoptive parent retains custody and control of the child."

"(b) The accounting report shall be itemized in detail and shall show the services relating to the adoption or to the placement of the child for adoption that were received by the petitioners, by either birth parent, by the child, or by any other person for whom payment was made by or on behalf of the petitioners. The report shall also include the dates of each payment, the names and addresses of each attorney, physician and surgeon, hospital, licensed adoption agency, or other person or organization who received any funds of the petitioners in connection with the adoption or the placement of the child with them, or participated in any way in the handling of those funds, either directly or indirectly.

HANDBOOK BEGINS HERE

- (A) The content of ~~Civil~~ Family Code Section ~~224/77~~ 8818 is located at Section 35121(a) (3) (A) 1.

HANDBOOK ENDS HERE

Authority Cited: Section 8621, Family Code; Sections 10553, 10554, and 10850(d) Welfare and Institutions Code; and Section 10439, Health and Safety Code.

Reference: Sections 1798.24(r) and 1798.24(s), 221/50/ 224/33/ 224/73/ 229/50/ 229/60/ and 229/70/ Civil Code; Sections 8610, 8803, 8818, 9204, 9205, and 9206, Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35087 to read:

35087 DOCUMENTATION TO FACILITATE ASSESSMENT

35087

(a) (Continued)

- (1) Authorization for the release of medical and employment information on the petitioner.
- (2) through (6) (Continued)
- (7) (Continued)

HANDBOOK BEGINS HERE

- (A) ~~Civil~~ Family Code Section ~~224/49~~ 8811, in pertinent part, ~~reads~~ ~~as follows~~ states:

"(a) The department or delegated county adoption agency shall require ~~all~~ each persons filing an adoption petition ~~to adopt a child~~ to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department or delegated county adoption agency may also secure the person's full criminal record, if any/ of those persons. . .

"(c) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the petitioner shall be paid by the petitioner. The department or delegated county adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child."

HANDBOOK ENDS HERE

- (B) The ~~Agency~~ shall. . . (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Sections ~~224/40/ 224/42/ 224/44/ and 224/49/ Civil~~ 8806, 8807, 8808, and 8811, Family Code.

Amend Section 35089 to read:

35089      OBTAINING IDENTIFYING INFORMATION AND  
EVALUATING PETITIONERS DURING ASSESSMENT

35089

(a) (Continued)

(1) ~~Obtaining~~ The following identifying information on the petitioner and any children and adults residing in the home:

- (A) Name, date of birth and sex.
- (B) Current address and telephone number.
- (C) Blood relationship to child, if any.
- (D) Race and ethnic background information.
- (E) Religion.
- (F) Current employment information.
- (G) Verification of marital status, if relevant.

1. (Continued)

(i) When verification of the dissolution of any marriage of a petitioner is not possible, a marriage prior to a verified divorce decree shall be assumed to have been validly dissolved. A valid divorce presupposes that the marriage was valid.

(H) (Continued)

(2) (Continued)

(A) General characteristics.

HANDBOOK BEGINS HERE

1. (Continued)

- (a) The manner in which the petitioner has dealt with difficult or stressful life situations.
- (b) Relationships within the petitioner's family.
- (c) Ability to assume responsibility for the care, guidance, and protection of a child.
- (d) Emotional flexibility and stability.
- (e) Self-esteem.

- (f) Coping ability.
- (g) The manner in which normal hazards and risks are accepted.
- (h) Motivation for adoption.
- (i) Ability to have a parent-child relationship and to enjoy a child.
- (j) Flexibility regarding the petitioner's expectations of a child.

HANDBOOK ENDS HERE

(B) Feelings and attitudes which may impact the adoption.

HANDBOOK BEGINS HERE

1. (Continued)

- (i) The inability of the petitioner to conceive children when this is a factor in the adoption.
- (ii) Children born to unmarried birth parents.
- (iii) Sharing the facts surrounding the adoption with the adopted child.
- (iv) (Continued)
- (v) (Continued)

HANDBOOK ENDS HERE

(C) Social background.

HANDBOOK BEGINS HERE

- 1. Participation in community activities.
- 2. (Continued)

HANDBOOK ENDS HERE

(D) Educational background.

(E) Financial stability.

(F) Work adjustment.

(G) (Continued)



HANDBOOK BEGINS HERE

1. Evaluation of adequacy of housing may include evaluation of the following conditions:
  - (i) Sanitation.
  - (ii) Safety.
  - (iii) Sleeping accommodations.
  - (iv) (Continued)

HANDBOOK ENDS HERE

- (3) Evaluation of:
  - (A) (Continued)

HANDBOOK BEGINS HERE

1. ~~Civil~~ Family Code Section ~~224/49~~ 8811(b), ~~in pertinent~~ ~~part~~ ~~reads as follows~~ states:

"~~///~~ The criminal record, if any, shall be taken into consideration when evaluating ~~a~~ the prospective adoptive parent, and an assessment of the effects of ~~his or her~~ any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court~~///~~."

HANDBOOK ENDS HERE

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 224/40/ 224/42/ 224/44/ and 224/49/ Civil 8806, 8807, 8808, and 8811(b), Family Code; and Section 11105.2 Penal Code.

Amend Section 35091 to read:

35091 COMPLETION OF ASSESSMENT AND REPORT TO COURT

35091

(a) (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section ~~224/42/ Civil~~ 8807, Family Code.

(a) (Continued)

(1) (continued)

(2) (Continued)

HANDBOOK BEGINS HERE

(A) The agency should ensure that the report on the child's health contains sufficient information to enable the agency to complete the report required by 47471 Family Code Section 224170(a) 8817.

1. Q17471 Family Code Section 22417047 8817 7666 \$ \$ 101704\$ states:

(a) A written report on the child's medical background, and if available, the medical background of the child's biological parents, so far as ascertainable, shall be made by the department or delegated county adoption agency as part of the study required by Section 8806.

(b) The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history and family life.

"(c) The report shall be submitted to the prospective adoptive parents who shall acknowledge its receipt in writing."

[illegible]

(Continued) (B)

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(DC) (Continued)

(ED) (Continued)

HANDBOOK BEGINS HERE

1. (Continued)

HANDBOOK ENDS HERE

(3) (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; Section 8608(a), Family Code.

Reference: Sections 224/40/ 224/42/ and 224/70/ Civil 8806, 8807, and 8817, Family Code.

Amend Section 35094 to read:

35094 WRITTEN REPORT ON ASSESSMENT OF CHILD TO BE  
PROVIDED TO PROSPECTIVE ADOPTIVE PARENTS

35094

- (a) Prior to finalization of the adoption, the agency shall give the prospective adoptive parents a written medical report in accordance with Civil Family Code Section 224/70(a) 8817(c) and the information gathered pursuant to ~~Subchapter 4/ Article 1/~~ Section 35093, "Assessment of the Child."

HANDBOOK BEGINS HERE

~~11) The content of Civil Code Section 224/70(a) is located at Section 224/70(a)(2)(C).~~

(21) (Continued)

HANDBOOK ENDS HERE

(32) (Continued)

(43) (Continued)

(A) (Continued)

(C) (Continued)

1. (Continued)

HANDBOOK BEGINS HERE

(i) (Continued)

HANDBOOK ENDS HERE

(D) (Continued)

(b) (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; and Section 224/70(b) Civil 8608(a), Family Code.

Reference: Section 224/70(a) Civil 8817(c), Family Code.

Adopt new Article 2 and new Section 35094.1 to read:

Article 2 Placement for Independent Adoption

35094.1 ADOPTION SERVICE PROVIDER REGISTRATION-AND DUTY OF CARE

35094.1

(a) Prior to acting as an adoption service provider in California, the potentially qualified individual shall register with the Adoptions Branch of the department at Sacramento by providing the following evidence that he or she meets the qualifications specified in Family Code Section 8502. The registration shall be acknowledged by the department.

(1) The individual shall provide, or cause to be provided, to the department at:

California Department of Social Services  
Adoptions Branch  
744 P Street, M.S. 19-67  
Sacramento, California 95814

(A) A copy of the individual's current license as a Licensed Clinical Social Worker.

(B) An original letter or letters mailed to the department by the adoption agency or agencies with whom the individual worked attesting to the individual's experience and giving specific dates of employment.

(2) Verification or clarification of the information provided by the individual shall be obtained by the department, if necessary, from the Board of Behavioral Science Examiners and/or the employer(s).

(3) No individual shall be registered unless he or she possesses the required license and experience. ~~If an individual has been registered and the department subsequently determines that he or she in fact lacks the required license and experience, registration of the individual shall be terminated.~~ DISAPPROVED 2ND SENTENCE ONLY.

(4) A complaint shall be filed with the Board of Behavioral Science Examiners by the department or delegated county adoption agency when the actions of an individual adoption service provider are not in compliance with the department's regulations.

(b) The adoption service provider shall comply with Family Code Section 8801.7, which provides that the adoption service provider owes a very high duty of care to the birth parent being advised.

HANDBOOK BEGINS HERE

(1) Family Code Section 8801.7(c) states:

"(c) The adoption service provider owes a very high duty of care to the birth parent being advised, regardless of who pays the provider's fees. The duty of care specifically does not include a duty to investigate information provided by the birth parents, prospective adoptive parents, or their attorneys or agents. No adoption service provider shall have a contractual relationship with prospective adoptive parents, an attorney or representative for prospective adoptive parents, or any individual or organization providing services of any type to prospective adoptive parents for which the adoptive parents are paying a fee, except as relates to the payment of the fees for the advising and counseling of the birth parents."

(c) Adoption service provider is defined in Family Code Section 8502, the content of which is located at Section 35000(a)(5).

HANDBOOK ENDS HERE

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 8502 and 8801.7, Family Code.

Adopt new Section 35094.2 to read:

35094.2 PRE-PLACEMENT ADVISEMENT

35094.2

- (a) The adoption service provider shall advise a birth parent, as required by Family Code Section 8801.5, when the birth parent is considering the placement of his or her child for independent adoption unless the prospective adoptive parent is a grandparent, aunt, uncle, sibling, legal guardian who has been the child's legal guardian for more than three years or is a person named in the will of a deceased parent as an intended adoptive parent where the child has no other parent.

HANDBOOK BEGINS HERE

- (1) Family Code Section 8801.5, in pertinent part, states:

"(a) Each birth parent placing a child for adoption shall be advised of his or her rights by an adoption service provider.

(b) The birth parent shall be advised of his or her rights in a face-to-face meeting in which the birth parent may ask questions and have questions answered, as provided by Section 8801.3...."

HANDBOOK ENDS HERE

- (b) Prior to advising a birth parent who is considering the placement of his or her child for independent adoption, the adoption service provider shall obtain background information regarding the prospective adoptive parents.

- (1) This background information shall include at least the personal knowledge, as defined in Section 35000(p)(5), that the birth parent must have prior to placing a child for adoption.

- (c) When advising a birth parent who is considering the placement of his or her child for adoption, the adoption service provider shall inform the birth parent of:

- (1) His or her right to separate, independent legal counsel paid for by the prospective adoptive parents upon the request of the birth parent.

- (2) Alternatives to adoptive placement of the child including, but not limited to:

- (A) Services which would assist the birth parent in caring for the child including:

1. Financial resources such as child support and Aid to Families with Dependent Children (AFDC).



2. Employment resources such as vocational training and Employment Development Department services.
  3. Educational resources such as continuation school and General Equivalency Diploma programs.
  4. Child care resources, including the availability of subsidized day care.
  5. Housing resources such as shared housing with relatives or nonrelatives and government subsidized housing.
  6. Health service resources such as well baby clinics, Child Health and Disability Prevention Programs (CHDP), California Children's Services, and Medi-Cal.
- (B) Services, such as voluntary foster care placement or temporary placement with extended family members, which would give the parent more time to determine the most appropriate plan for the child.
- (3) Alternative forms of adoption, including a description of the full procedures and timeframes involved in each type, which at a minimum shall address the following:
- (A) Standard agency (relinquishment) adoption
1. The birth parent transfers his or her rights and responsibilities for the child to an adoption agency by signing a relinquishment of the child to the agency.
    - (i) The birth parent's legal rights and responsibilities for the child end when the relinquishment is filed with the department.
    - (ii) The relinquishment is filed on a date agreed to by the birth parent and the agency.

HANDBOOK BEGINS HERE

      - a. The relinquishment is usually filed less than 30 days after it is signed.

HANDBOOK ENDS HERE
    - (iii) The birth parent may revoke the relinquishment before it is filed with the department.
    - (iv) The birth parent may not rescind the relinquishment after it is filed with the department unless the adoption agency agrees.

2. The prospective adoptive parents must be assessed and approved by the adoption agency before the child is placed for adoption with the family.
3. The adoption agency, not the birth parent, selects the adoptive parents, and the birth parent usually does not know the identity of the adoptive parents.

(B) Designated agency (relinquishment) adoption

1. These adoptions are the same as standard agency adoptions except that:
  - (i) The birth parent participates in the selection of the adoptive parents,
  - (ii) The birth parent knows the identity of the adopting parents, and
  - (iii) The birth parent also has a right to rescind his or her relinquishment and thus regain his or her parental rights and responsibilities if the child is not placed with the selected family or if the placement disrupts prior to completion of the adoption.

(C) Independent adoption by relatives

1. The birth parent agrees to the prospective adopting parents' future adoption of the child by signing a consent to the adoption.
  - (i) The birth parent continues to be legally responsible for the child until the adoption is completed.

HANDBOOK BEGINS HERE

- a. The adoption typically is completed within 9 months after the petition is filed.

HANDBOOK ENDS HERE

- (ii) The consent to the adoption becomes irrevocable 90 days after it is signed unless the birth parent waives the right to revoke the consent before the 90 days expire.
- (iii) The birth parent may revoke the consent and, if he or she has legal custody, reclaim the child at any time before the consent becomes irrevocable.

a. When the consent becomes irrevocable, custody of the child may be regained by the birth parent only if the potential adoptive parents agree to withdraw their petition for adoption or the court denies the petition for adoption.

(iv) The consent does not require the prospective adoptive parents to complete the adoption.

2. The prospective adoptive parents are assessed as to their suitability to adopt after the child has begun living with them and they have filed a petition to adopt with the court.

3. The birth parent selects the adoptive parents.

4. The child begins living with the prospective adoptive parents before parental rights have been terminated.

(D) Independent adoption by nonrelatives

1. Each placing birth parent agrees to the prospective adopting parents' future adoption of the child by signing a placement agreement, and any non-placing birth parents agree to the future adoption by signing a consent.

(i) The birth parent continues to be legally responsible for the child until the adoption is completed.

HANDBOOK BEGINS HERE

a. The adoption typically is completed within 8 months after the petition is filed.

HANDBOOK ENDS HERE

(ii) A placement agreement becomes an irrevocable consent to the adoption 90 days after it is signed unless the birth parent shortens this period by waiving the right to revoke the consent before the 90 days expire.

(iii) A consent becomes irrevocable 90 days after it is signed unless the birth parent shortens this period by waiving the right to revoke the consent before the 90 days expire.

a. When the placement agreement or consent becomes an irrevocable consent, custody of the child may be regained by the birth parent only if the potential adoptive parents agree to withdraw their petition for adoption or the court denies the petition for adoption.

- (iv) The birth parent may revoke the placement agreement or consent and, if he or she has legal custody, reclaim the child at any time before the placement agreement or consent becomes an irrevocable consent.
    - (v) The placement agreement or consent does not require the prospective adoptive parents to complete the adoption.
  - 2. The prospective adoptive parents are assessed as to their suitability to adopt after the child has begun living with them and they have filed a petition to adopt with the court.
  - 3. The birth parent selects the adoptive parents.
  - 4. The child usually begins living with the prospective adoptive parents when a parent with legal custody has signed an adoptive placement agreement.
- (4) The right to a minimum of three separate counseling sessions, as required by Family Code Section 8801.5.

HANDBOOK BEGINS HERE

- (A) Family Code Section 8801.5, in pertinent part, states:

"...(c)(5) The right to a minimum of three separate counseling sessions, each to be held on different days, to be paid for by the prospective adoptive parents upon the request of the birth parents, as provided for by subdivision (d).

"(d) Each person advised pursuant to this section shall be offered at least three separate counseling sessions, to be held on different days. Each counseling session shall be not less than 50 minutes in duration. The counseling may be provided by an adoption service provider or by a licensed psychotherapist, as defined by Section 1010 of the Evidence Code, as elected by the person.

"(e) The counselor owes a duty of care to the birth parent being counseled, similar to the duty of care established by a psychotherapist-patient relationship, regardless of who pays the fees of the counselor. No counselor shall have a contractual relationship with the adoptive parents, an attorney for the adoptive parents, or any other individual or an organization performing any type of services for the adoptive parents and for which the adoptive parents are paying a fee, except as relates to payment of the birth parents' fee."

HANDBOOK ENDS HERE

- (5) Other rights and responsibilities of the birth parent as outlined on the AD 926 or, if the child is subject to the Indian Child Welfare Act, the AD 927.

HANDBOOK BEGINS HERE

- (A) The Statement of Understanding for the parent whose child is not subject to the Indian Child Welfare Act (ICWA) is described in Section 35095.1, and the Statement of Understanding for the parent whose child is subject to the ICWA is described in Section 35095.2.

HANDBOOK ENDS HERE

- (B) The adoption service provider shall review each item on the Statement of Understanding with the birth parent to be certain that the birth parent understands the meaning of each item.
- (C) The adoption service provider shall answer any questions the birth parent has about the meaning of the items.
- (6) If all possible birth parents are not placing the child for adoption, the necessity of legally terminating the parental rights or securing the consent of all other possible parents before the adoption can be completed.
- (A) The adoption services provider shall emphasize the importance of and explain the possible repercussions of not accurately identifying other possible birth parents including:
1. The fact that the mother or presumed father who was not informed of the adoptive placement may take custody of the child after the child has been placed for adoption and that this is very traumatic for the child and the prospective adoptive parents.
  2. The fact that if parents are not identified, it is not possible to obtain information about their medical history and other background information and the child and his or her adoptive parents will be deprived of crucial information which may be relevant to future decisions regarding the child's health and well-being.
- (B) The adoption service provider shall make a diligent attempt to secure from the placing parent information necessary to allow accurate identification of the other parent.
1. The AD 880 shall be used to collect this information from birth mothers.
- (7) The fact that the proposed independent adoption will be investigated by the department or delegated county adoption agency and that the birth parent will be interviewed during the investigation.

(A) The adoption service provider shall provide the birth parent with the name, address and telephone number of the department or delegated county adoption agency office that will investigate the proposed adoption.

(d) The adoption service provider shall give the birth parent the following documents at the initial session:

(1) Documents provided for the birth parent's review:

(A) The relevant Statement of Understanding with the personal knowledge section completed.

(B) The relevant Independent Adoption Placement Agreement.

(C) The AD 908.

(2) Documents which the birth mother shall be given with the request that she complete them, possibly with the assistance of family members, prior to signing the Independent Adoption Placement Agreement:

(A) The AD 67.

(B) If the birth father has not been advised, the AD 67A with the request that the birth mother provide as much information as possible.

(C) The AD 880.

(3) Documents which the birth father shall be given with the request that he complete them, possibly with the assistance of family members, prior to signing the Independent Adoption Placement Agreement:

(A) The AD 67A.

(B) If the birth mother has not been advised, the AD 67 with the request that the birth father provide as much information as possible.

Authority Cited: Section 8621, Family Code; Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 7663, 8502, 8801.3, 8801.5, 8801.7, 8802, 8817, and 8818, Family Code.

Adopt Section 35094.3 to read:

35094.3 INDEPENDENT ADOPTION PLACEMENT AGREEMENT

35094.3

(a) Prior to signing the AD 924 or the AD 925, the adoption service provider shall:

- (1) Obtain, document, and share with the prospective adoptive parents information from the birth parent(s) regarding the child's background, the birth parents' reasons for choosing adoption for the child, and the birth parents' attitude toward the proposed adoptive placement.
  - (A) Assist the birth parent in providing medical and family background information by helping him or her complete the AD 67 and the AD 67A forms.
  - (B) Assure that the adopting parents have received copies of the AD 67 and the AD 67A forms completed by the birth parent(s).
- (2) Determine whether the child is an Indian child prior to witnessing the signing of a placement agreement if any documentation or oral report indicates that either birth parent may be of Indian ancestry.
  - (A) The adoption service provider shall ask the birth parent whether the birth parent or the child's other parent is of Indian ancestry.

HANDBOOK BEGINS HERE

- (B) "Indian Child" is defined at Section 35000(i)(6).
- (C) The process for determining whether the child is an Indian child is found at Section 35357 et seq.

HANDBOOK ENDS HERE

- (3) Ask the birth mother to identify the child's father or possible fathers.
  - (A) As part of this inquiry, the adoption service provider shall assist the birth mother in completing the AD 880.
- (4) Determine that the birth parent has the ability to understand the nature, content, and effect of signing an adoptive placement agreement.
  - (A) If the adoption service provider's observation or knowledge of the parent's history or current condition indicates that the parent may not have the ability to understand the content, nature, and effect of signing the adoption placement agreement, the adoption service provider shall ask the potential adoptive parents to arrange for an evaluation by a licensed physician or a licensed clinical psychologist of the parent's ability to understand the nature, content, and effect of signing an adoptive placement agreement.

1. This evaluation shall not be required if the inability is temporary resulting from factors such as stress, lack of sleep, or the use of alcohol or other mind-altering substances. However, the adoption service provider shall not sign the adoption placement agreement until the birth parent is able to understand the content, nature, and effect of the agreement.
2. The need for an evaluation is indicated under, but not limited to, the following circumstances:
  - (i) The birth parent is receiving SSI/SSP based on mental illness or developmental disability.
  - (ii) The birth parent has received psychiatric treatment and/or medication for mental illness or disease within the past two years.
    - a. Counseling related to placement of the child for adoption, the resolution of marital problems or similar decision-making shall not be considered psychiatric treatment for mental illness or disease.
3. The adoption service provider shall obtain a written authorization from the parent for release of the evaluation by the physician or clinical psychologist to the adoption service provider and the department or delegated county adoption agency.
4. The adoption service provider shall sign the placement agreement:
  - (i) Only if the evaluation establishes that the birth parent has the ability to understand the nature, content, and effect of signing a consent to adoption;
  - (ii) No later than 30 days after the evaluation is completed; and
  - (iii) In the case of a birth parent for whom the court has appointed a conservator, only if the order of conservatorship specifically allows the birth parent to consent to the adoption of his or her child.
- (5) Obtain written authorization from the birth parent for the following releases of information concerning the parent and the child:
  - (A) From the adoption service provider to the department or delegated county adoption agency.
  - (B) From the department or delegated county adoption agency to the prospective adoptive parents.



- (C) From the child's physician(s) to the department or delegated county adoption agency if the child is not being placed at birth.
- (6) Obtain written authorization from the birth mother for the following releases of information concerning the mother and the child:
  - (A) From the birth mother's physician(s) to the department or delegated county adoption agency.
  - (B) From the hospital where the birth mother delivered the child, or intends to deliver the child, to the department or delegated county adoption agency.
- (7) Determine that the birth parent is voluntarily choosing to place the child with the prospective adoptive parents for the purpose of adoption pursuant to Family Code Section 8801.

HANDBOOK BEGINS HERE

- (A) Family Code Section 8801 states:

"(a) The selection of a prospective adoptive parent or parents shall be personally made by the child's birth parent or parents and may not be delegated to an agent. The act of selection by the birth parent or parents shall be based upon his, her, or their personal knowledge of the prospective adoptive parent or parents.

"(b) 'Personal knowledge' as used in this section includes, but is not limited to, substantially correct knowledge of all of the following regarding the prospective adoptive parents: their full legal names, ages, religion, race or ethnicity, length of current marriage and number of previous marriages, employment, whether other children or adults reside in their home, whether there are other children who do not reside in their home and the child support obligation for these children and any failure to meet these obligations, any health conditions curtailing their normal daily activities or reducing their normal life expectancies, any convictions for crimes other than minor traffic violations, any removals of children from their care due to child abuse or neglect, and their general area of residence or, upon request, their address."

HANDBOOK ENDS HERE

- (B) The adoption service provider shall sign the adoption placement agreement only after he or she determines that the birth parent has substantially correct knowledge of all of the elements of personal knowledge regarding the prospective adoptive parents.
- (8) Present a copy of the AD 908 to the birth parent and give him or her an opportunity to complete and sign the statement.

(9) Obtain the birth parent's signature on the Statement of Understanding form after the birth parent has affirmed his or her understanding of the placement and consent process by reading and initialing each explanatory statement on the Statement of Understanding form in the presence of the adoption service provider.

(A) The Statement of Understanding shall be signed on the same day, but prior to the signing of the adoption placement agreement.

(10) Sign the Statement of Understanding form certifying that the birth parent's signature has been properly witnessed.

(11) Obtain written verification of the provision of the advisement from the advising adoption service provider, if the adoption service provider signing the adoption placement agreement is not the adoption service provider that provided the advisement.

(b) After the conditions specified in Section 35094.2(a) have been met, the adoption service provider shall arrange for the signing of the adoption placement agreement as provided in Family Code Section 8801.3.

HANDBOOK BEGINS HERE

(1) Family Code Section 8801.3, in pertinent part, states:

"A child shall not be considered to have been placed for adoption unless each of the following is true:

"(a) Each birth parent placing the child for adoption has been advised of his or her rights, and if desired, has been counseled pursuant to Section 8801.5.

"(b) The adoption service provider, each prospective adoptive parent, and each birth parent placing the child have signed an adoption placement agreement on a form prescribed by the department. The signing of the agreement shall satisfy all of the following requirements:

"(1) Each birth parent shall have been advised of his or her rights pursuant to Section 8801.5 at least 10 days before signing the agreement, unless the adoption service provider finds exigent circumstances which shall be set forth in the adoption placement agreement.

"(2) The agreement may not be signed by either the birth parents or the prospective adoptive parents until the time of discharge of the birth mother from the hospital. However, if the birth mother remains hospitalized for a period longer than the hospitalization of the child, the agreement may be signed by all parties at the time of or after the child's discharge from the hospital but prior to the birth mother's discharge from the hospital if her competency to sign is verified by her attending physician and surgeon before she signs the agreement.

"(3) The birth parents and prospective adoptive parents shall sign the agreement in the presence of an adoption service provider.

"(4) The adoption service provider who witnesses the signatures shall keep the original of the adoption placement agreement and immediately forward it and supporting documentation as required by the department to the department or delegated county adoption agency.

"(5) The child is not deemed to be placed for adoption with the prospective adoptive parents until the adoption placement agreement has been signed and witnessed.

"(6) If the birth parent is not located in this state, the adoption placement agreement shall be signed before an adoption service provider or a notary or other person authorized to perform notarial acts in the state where the birth parent is located...."

HANDBOOK ENDS HERE

(2) If the child is an Indian child, the placement agreement must be signed in accordance with Section 35375.

(c) After the Independent Adoption Placement Agreement has been signed by the birth parents, the adoptive parents, and the adoption service provider, the adoption service provider shall:

(1) Give the birth parent copies of the following signed documents:

(A) The Independent Adoption Placement Agreement.

(B) The Statement of Understanding.

(C) The Adoptions Information Act Statement.

(D) If requested, any other documents which the birth parent has signed.

(2) Give the potential adoptive parents a copy of the signed Independent Adoption Placement Agreement.

(3) Offer to interview the birth parent as provided in Family Code Section 8801.7

HANDBOOK BEGINS HERE

(A) Family Code Section 8801.7, in pertinent part, states:

"(a) An adoption service provider shall ... offer to interview the birth parent after the placement of the child with prospective adoptive parents. The interview shall occur within 10 working days after the placement of the child for adoption and shall include a consideration of any concerns or problems the birth parent has with the placement, a readvisement of the rights of the birth parent, and the taking of the health and social history of the birth parent, if not taken previously.

"(b) The adoption service provider shall immediately notify the department or delegated county adoption agency if the birth parent is not interviewed as provided in subdivision (a) or if there are any concerns regarding the placement. If the birth parent wishes to revoke the consent, the adoption service provider shall assist the birth parent in obtaining the return of the child...."

HANDBOOK ENDS HERE

- (4) If a birth parent who has placed a child decides to revoke consent, offer and, if requested, do the following to assist the birth parent in obtaining the return of the child:
- (A) Assist the birth parent in completing the written statement revoking the placement agreement and delivering that statement to the department or delegated county adoption agency.
    - 1. A specific form shall not be required, but the AD 928 may be used for this purpose.
  - (B) Contact the prospective adoptive parents to inform them of the placing parent's decision and to arrange the time and place of the return of the child.
  - (C) Accompany the birth parent when the parent takes custody of the child.
- (5) Send the department or delegated county adoption agency:
- (A) A completed AD 930.
  - (B) Original signed copies of all documents signed by the birth parent including, but not limited to:
    - 1. The AD 924 or the AD 925.
    - 2. The AD 926 or the AD 927.
    - 3. The AD 908.
    - 4. The AD 67.
    - 5. The AD 67A.
    - 6. The AD 880.
    - 7. The AD 100.
  - (C) The information specified in Section 35094.2(b).
  - (D) Reports of any examinations of the birth parent's competency to sign an adoption placement agreement.

- (E) Any documents related to the determination of the child's status as an Indian child under the Indian Child Welfare Act.
- (F) A summary of contacts with the birth parent, including the information obtained pursuant to Section 35094.3(a)(1) and any other information which the adoption service provider believes will assist the department or delegated county adoption agency in its investigation of the proposed adoption.
- (G) Any request to revoke the adoption placement agreement.

Authority Cited: Section 8621, Family Code. Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 4992.3, Business and Professions Code; Sections 56.11, 1798.24, Civil Code; Sections 7663, 8801, 8801.3, 8801.5, 8801.7, 8813, 8814.5, 8815, 8817, and 8818, Family Code; 25 USC 1901 et seq.

Renumber existing Article 2 to Article 3 and amend Section 35095 to read:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS

Article 23 Prerequisites To Consent

35095 GENERAL PREREQUISITES TO CONSENT

35095

- (a) The agency shall interview the birth parent as required by Family Code Section 8808.

HANDBOOK BEGINS HERE

- (1) The content of Family Code Section 8808 is located at Section 35079(b)(5).

HANDBOOK ENDS HERE

- (ab) Prior to accepting a consent to adoption or a waiver of right to revoke consent, the agency ~~representative~~ shall:

- (1) Obtain information from the birth parents regarding the child's background, the birth parents' reasons for choosing adoption for the child, and the birth parents' attitude toward the adoption.  
(Continued)

- (4) Verify the marriages and dissolutions of marriage of the birth mother as required by Section 35023(ab)(5).

- (5) Interview the petitioners unless ~~the agency has received confirmation that:~~

~~(A) The consenting parent has been advised as provided in Section 35127/11 and~~

~~(B) The assessment described in Section 35127/12 has been performed and it has been determined that there is no serious question about the suitability of the petitioners.~~

(A) The birth parent has requested that he or she be interviewed within 10 working days as provided in Family Code Section 8814.5; and

(B) The agency's schedule precludes interviewing the petitioners prior to the interview with the birth parent.

HANDBOOK BEGINS HERE

1. Family Code Section 8814.5(a)(2), in pertinent part, states:

"... Within 10 working days of a request made after the department, the delegated county adoption agency, or the court has received a copy of the petition for the adoption and the names and addresses of the persons to be interviewed, the department, the delegated county adoption agency or the court shall interview, at the department or agency office, any birth parent requesting to be interviewed."

HANDBOOK ENDS HERE

- (6) Determine that the birth parent voluntarily chose to place the child with the petitioners for the purpose of adoption based upon the definition of "place for adoption" and specific personal knowledge as defined in Civil Code Sections 220/20/4Y and 220/20/6Y pursuant to Family Code Section 8801.

- (A) The ~~Agency representative~~ shall document in the court report whether the birth parent voluntarily selected the petitioners and placed the child pursuant to Civil Family Code Section 224/20 8801 which is located at Section 35094.3(a)(7)(A).

HANDBOOK BEGINS HERE

1/ The content of Civil Code Sections 220/20/4Y and 220/20/6Y are located at 35000/6Y/4Y/AY and 35000/6Y/6Y/AY respectively.

2/ Civil Code Section 224/20 reads as follows:

"The selection of prospective adoptive parent or parents shall be personally made by the birth parent or parents of the child and may not be delegated to an agent. The act of selection by the birth parent or parents shall be based upon his/ her/ or their personal knowledge of the prospective adoptive parent or parents."

HANDBOOK ENDS HERE

- (B) If the agency ~~representative~~ determines that the birth parent has not demonstrated substantially correct knowledge of all ~~eight~~ elements of personal knowledge regarding the petitioners, a consent to the adoption cannot be taken since an independent adoptive placement as defined in law has not occurred.
- (C) (Continued)
- (D) The agency shall immediately file a preliminary court report to the court if the adoptive placement is not made in accordance with Civil Code Sections 220/20/4Y, 220/20/6Y, 221/40 or 224/20 Family Code Sections 8609, 8801 or 8801.3.

HANDBOOK BEGINS HERE

1. Civil Family Code Section 221/40 8609 reads as follows states:

"(a) Any person who, or organization that, without holding a valid and unrevoked license to place children for adoption issued by the department, advertises in any periodical or newspaper, by radio, or other public medium, that he, she, or it will place children for adoption, or accept, supply, provide or obtain children for adoption, or that causes any advertisement to be published in or by any public medium soliciting, requesting, or asking for any child or children for adoption is guilty of a misdemeanor."

"(b) Any person other than a birth parent who, or any organization, association, or corporation that, without holding a valid and unrevoked license to place children for adoption issued by the department, places any child for adoption is guilty of a misdemeanor."

2. The content of Civil Code Sections 220/20/AY/ 220/20/AY/ and 224/20 are located at Section 35094.3(a)(7)(A).
3. The content of Family Code Section 8801.3 is located at Section 35094.3(b)(1).

HANDBOOK ENDS HERE

(7) through (8) (Continued)

(9) Obtain the birth parent's signature on the Statement of Understanding form after the parent has:

(A) Affirmed his/her his or her understanding of the consent process by reading and initialing each explanatory statement on the Statement of Understanding form.

(10) (Continued)

(11) (Continued)

(c) The agency is not required to repeat any of the duties mandated by Section 35095(b)(1), (2), (3), (8), (9), (10), or (11) if the duties have been performed by an adoption service provider and the agency has received documentation of the outcome of the adoption service provider's work.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Sections 224/30/AY and 224/70/AY/ Civil 8608(a) and 8621, Family Code.

Reference: Sections 220/20/AY/ 220/20/AY/ 221/40/ 224/20/ 224/40/ 224/42/ 224/44/ 224/50/ 224/62/ and 224/70/AY/ Civil 8608, 8609, 8801, 8801.3, 8801.7, 8806, 8807, 8808, 8814, 8814.5 and 8817, Family Code.



Amend Section 35095.1 to read:

35095.1 STATEMENT OF UNDERSTANDING FOR THE PARENT  
WHOSE CHILD IS NOT SUBJECT TO THE ICWA

35095.1

(a) Reserved

HANDBOOK BEGINS HERE

(a) Refer to Section 35095.2 for the Statement of Understanding for the parent whose child is subject to the ICWA.

HANDBOOK ENDS HERE

(b) The Statement of Understanding shall contain statements which summarize the following:

(1) For the parent who gave physical custody of the child to the adoptive parents but who did not place the child for independent adoption:

(A) The parent wants to ~~permanently~~ give his child permanently to the petitioners for adoption.

(B) The parent has chosen the petitioners to be adoptive parents based on the parent's personal knowledge ~~of the items specified in Civil Code Section 220/2000~~ pursuant to Family Code Section 8801.

HANDBOOK BEGINS HERE

1. The ~~relevant~~ content of Civil Family Code Section 220/2000 8801 is located at Section ~~35000/4000~~ 35094.3(a)(7)(A).

HANDBOOK ENDS HERE

(C) The parent has the right to seek legal counsel to assist in the Independent Adoption process, and the ~~agency can refer the parent to public legal assistance in the community~~ petitioners may be required to pay the cost, up to \$500, of such legal counsel, unless a higher fee is agreed to by the parties.

(D) and (E) (Continued)

(F) If the parent does not wish to consent to the adoption, the parent may sign a ~~Refusal to Give Consent to Adoption~~ AD 20 17/8400 or write a letter to the adoption agency, and the adoption agency will report to the court that the parent does not want the child adopted by the petitioners.

(G) (Continued)

(H) The consent will automatically become an irrevocable consent to adoption on the 91st day after it is signed or when the parent signs a waiver of the right to revoke consent, whichever occurs first.

- (H) 1. If the parent changes his or her mind after signing the consent to adoption and wishes to ~~withdraw~~ revoke the consent to adoption, the parent must ~~write to the court in the county in which the adoption petition is filed~~ write to the court in the county in which the adoption petition is filed, before the adoption is granted, to ask that his or her consent be withdrawn. The court may appoint an attorney for the parent if the parent cannot afford an attorney. The parent will not be permitted to withdraw the consent to adoption unless the parent proves to the court that there are good reasons for the parent's change of mind and that it would be better for the child to live with the parent rather than the petitioners. The petitioners sign and deliver to the department or delegated county adoption agency a written statement revoking the consent and requesting that the child be returned. Such action may not be taken after the 90th day after signing the consent or after signing a waiver of the right to revoke consent, whichever occurs first.
2. When the consent becomes irrevocable, custody of the child may be regained by the birth parent only if the prospective adoptive parents agree to withdraw their petition for adoption or the court denies the petition.

(I) through (L) (Continued)

(M) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/ or her adoptive family.

(N) (Continued)

(O) The agency cannot release any identifying information about the parent unless:

1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or
2. The adult adoptee and birth parent both sign written consents to arrange contact between these persons in accordance with ~~Civil~~ Civil Family Code Section 229/30 9204, or

HANDBOOK BEGINS HERE

(i) ~~The content of Civil~~ A partial quotation of Family Code Section 229/30 9204 is located at Section 35049(b) (4) (BA).

HANDBOOK ENDS HERE

3. The adoptee who has reached the age of 21 has requested the identity of his/ or her birth parent and his/ or her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with 01/11/11 Family Code Section 229/40/11 9203, or
4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with 01/11/11 Family Code Section 229/40/11 9203, or
5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/ or her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with 01/11/11 Family Code Section 229/40/11 9203.

HANDBOOK BEGINS HERE

- (i) The relevant content of 01/11/11 Family Code Section 229/40/11 9203 is located at Section 35053(b)(1).

HANDBOOK ENDS HERE

(P) through (S) (Continued)

- (T) The Statement of Understanding for the parent who gave physical custody of the child not subject to the provisions of the ICWA but who did not place the child for adoption as provided by Sections 35094.2 and 35094.3 is the AD 887.

(2) For the parent who intends to place the child for independent adoption as provided by Sections 35094.2 and 35094.3:

- (A) The parent wants to give his or her child permanently to the prospective adoptive parents for adoption.
- (B) The parent has chosen the prospective adoptive parents to be adoptive parents based on the parent's personal knowledge pursuant to Family Code Section 8801.

HANDBOOK BEGINS HERE

1. The content of Family Code Section 8801 is located at Section 35094.3(a)(7)(A).

HANDBOOK ENDS HERE

- (C) The parent has the right to seek legal counsel to assist in the Independent Adoption process, and the prospective adoptive parents may be required to pay the cost, up to \$500, of such legal counsel, unless a higher fee is agreed to by the parties.
- (D) The parent may talk about the plan to place the child for adoption with other professionals and with family and friends.
- (E) The parent knows there are other services to assist with finance, employment, education, housing, temporary child care and health matters if uncertain about consenting to the adoption.
1. The adoption service provider will make a referral to the appropriate resource.
- (F) The parent has a right to a minimum of three separate counseling sessions with an adoption service provider or a licensed psychotherapist which, at the birth parent's request, shall be paid for by the prospective adoptive parent.
- (G) If the parent does not wish to place the child for adoption, the parent should not sign the Independent Adoption Placement Agreement.
- (H) The agreement will automatically become an irrevocable consent to adoption on the 91st day after it is signed or when the parent signs a waiver of the right to revoke consent, whichever occurs first.
1. If the parent changes his or her mind after signing the adoption placement agreement and wishes to revoke the agreement, the parent must sign and deliver to the department or delegated county adoption agency a written statement revoking the agreement and requesting that the child be returned. Such action may not be taken after the 90th day after signing the agreement or after signing a waiver of the right to revoke consent, whichever occurs first.
2. When the consent becomes irrevocable, custody of the child may be regained by the birth parent only if the prospective adoptive parents agree to withdraw their petition for adoption or the court denies the petition.
- (I) The parent remains legally responsible for the child until the adoption is granted by the court. The agency will notify the parent if the child is not adopted by the prospective adoptive parents to determine the parent's further plans for the child. The parent must keep the agency informed of his or her address.
- (J) The parent has received enough information about the prospective adoptive parents and wishes to proceed with signing the adoption placement agreement.

(K) The statements required by subsections 35095.1(b)(1)(K) through (R).

(L) The parent has considered the reasons for placing or not placing the child for adoption and has decided that to place the child for adoption with the prospective adoptive parents is in the best interest of the child.

(M) The Statement of Understanding for the parent who placed the child for adoption as provided by Sections 35094.2 and 35094.3 is the AD 926.

(23) For the parent who did not give physical custody of the child to the adopting parents:

(A) through (E) (Continued)

(24) For the alleged natural father:

(A) through (H) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Sections 8621 and 9202, Family Code.

Reference: Sections 197/ 220/20/21/ 220/20/22/ 220/20/23/ 221/10/ 221/12/ 221/20/ 221/74/ 221/75/ 224/10/ 224/36/ 224/44/ 224/61/ 224/62/ 224/64/ 224/70/ 224/73/ 228/10/ 229/20/ 229/30/ 229/40/ 229/50/ 229/60/ 1798.24(r), and 1798.24(s), 7001/ 7002/ 7003/ 7004/ 7006/ 7017/ and 7017/2/ Civil Code; Section 621/ Evidence Code/ and Sections 6408 and 6408.5, Probate Code; and Sections 3010, 7540, 7541, 7601, 7602, 7610, 7611, 7612, 7630, 7631, 7632, 7633, 7634, 7660, 7661, 7662, 7663, 7664, 7665, 8600, 8601, 8604, 8605, 8606, 8608, 8616, 8617, 8618, 8800, 8801, 8801.3, 8801.5, 8804, 8808, 8813, 8814, 8814.5, 8815, 8817, 8818, 9100, 9200, 9201, 9202, 9203, 9204, 9205, and 9206 Family Code.

Amend Section 35095.2 to read:

35095.2 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD  
IS SUBJECT TO THE ICWA

35095.2

(a) Reserved

HANDBOOK BEGINS HERE

(a) Refer to Section 35095.1 for the Statement of Understanding for the parent whose child is not subject to the ICWA.

HANDBOOK ENDS HERE

(b) The Statement of Understanding shall contain statements which summarize the following:

(1) For the parent who gave physical custody of the Indian child to the adoptive parents but who did not place the child for independent adoption:

(A) The parent wants to ~~permanently~~ give his child permanently to the petitioners for adoption.

(B) The parent has chosen the petitioners to be adoptive parents based on the parent's personal knowledge ~~of the terms specified in Civil Code Section 220/20/AY~~ pursuant to Family Code Section 8801.

HANDBOOK BEGINS HERE

1. The relevant content of Civil Family Code Section 220/20/AY 8801 is located at Section 35000(p) (45) AY.

HANDBOOK ENDS HERE

(C) through (E) (Continued)

(F) The parent has the right to seek legal counsel to assist in the Independent Adoption process and, ~~the agency can refer the parent to public legal assistance in the community~~ petitioners may be required to pay the cost, up to \$500, of such legal counsel, unless a higher fee is agreed to by the parties.

(G) and (H) (Continued)

(I) If the parent does not wish to consent to the adoption, the parent may sign a ~~Refusal to Give Consent to Adoption~~ AD 20 17/84YY or write a letter to the adoption agency, and the adoption agency will report to the court that the parent does not want the child adopted by the petitioners.

(J) through (N) (Continued)

(O) The parent will be notified if any other parent asks to take back ~~his/her~~ his or her consent and of any court proceedings because ~~he/she~~ he or she is asking to take back the consent.

1. The parent is responsible for keeping ~~his/her~~ his or her name and address current with the agency so that notice can be given.

(P) and (Q) (Continued)

(R) The adoption agency will take the necessary steps to obtain a Certificate of Degree of Indian Blood for the child and may enroll the child in ~~his/her~~ his or her tribe or register ~~his/her~~ his or her for any Bureau of Indian Affairs benefits that ~~he/she~~ he or she may be able to get.

(S) (Continued)

(T) The agency shall notify the parent if the adoption petition is withdrawn, dismissed, or denied or if the adoption is set aside.

1. The parent is responsible for keeping ~~his/her~~ his or her name and address current with the agency so that notice can be given.

(U) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from ~~his/her~~ his or her adoptive family.

1. The adoption of an Indian child terminates inheritance from the biological parents or blood relatives to the child; however, any rights or benefits the child has or may be eligible for as a result of ~~his/her~~ his or her status as an Indian are unaffected. See Subchapter 8.

(V) (Continued)

(W) The agency cannot release any identifying information about the parent unless:

1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or
2. The adult adoptee and birth parent both sign written consents to arrange contact between these persons in accordance with ~~the~~ Family Code Section ~~229/30~~ 9204, or

HANDBOOK BEGINS HERE

- (i) ~~The content of~~ A partial quotation of Family Code Section 229/30 9204 is located at Section 35049(b) (4) (BA).

HANDBOOK ENDS HERE

3. The adoptee who has reached the age of 21 has requested the identity of his/her his or her birth parent and his/her his or her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with § 9203 Family Code Section 229/40/2Y 9203, or
4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with § 9203 Family Code Section 229/40/2Y 9203, or
5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her his or her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with § 9203 Family Code Section 229/40/2Y 9203.

HANDBOOK BEGINS HERE

- (i) The relevant content of § 9203 Family Code Section 229/40/2Y 9203 is located at Section 35053(b) (1).

HANDBOOK ENDS HERE

(X) Information regarding the adoption may be released as follows:

1. The adopted child who has reached age 18 may request and receive from the court which granted the adoption information regarding the tribal affiliation of the birth parent and any other information necessary to protect any rights the adopted child may have with regard to his/her his or her tribal relationship.

2. through 4. (Continued)

(Y) through (DD) (Continued)

(2) For the parent who intends to place the Indian child for independent adoption as provided by Sections 35094.1 and 35094.2:

(A) The parent wants to give his child permanently to the prospective adoptive parents for adoption.

(B) The parent has chosen the prospective adoptive parents to be adoptive parents based on the parent's personal knowledge pursuant to Family Code Section 8801.



- (C) That because the child has been determined to be an Indian child the requirements of the Indian Child Welfare Act (ICWA) will apply to the signing of the adoption placement agreement and the adoption of the child.
- (D) According to the ICWA, the best place for the child to live if he cannot be with the parent would be with a member of his extended family. The next choice would be other members of the child's tribe. The third choice would be with another Indian family. If the parent does not wish to follow any of these placement choices, he or she must tell the court. The court will make the final decision as to whether this placement preference order will be changed.
- (E) The adoption placement agreement shall be signed before a judge of the Superior Court in California, or before a court of competent jurisdiction if signed outside the state.
- (F) The parent has the right to seek legal counsel to assist in the Independent Adoption process, and the prospective adoptive parents may be required to pay the cost, up to \$500, of such legal counsel, unless a higher fee is agreed to by the parties.
- (G) The parent may talk about the plan to place the child for adoption with other professionals and with family and friends.
- (H) The parent knows there are other services to assist with finance, employment, education, housing, temporary child care, and health matters if uncertain about consenting to the adoption.
  - 1. The adoption service provider will make a referral to the appropriate resource.
- (I) The parent has a right to a minimum of three separate counseling sessions with an adoption service provider or a licensed psychotherapist which, at the parent's request, will be paid for by the prospective adoptive parent.
- (J) If the parent does not wish to place the child for adoption, the parent should not sign the Independent Adoption Placement Agreement.
- (K) If the parent should change his or her mind about the adoption after signing the adoption placement agreement, the parent may withdraw the placement agreement before the adoption is granted by the court and the child will be returned to the parent.
- (L) The parent remains legally responsible for the child until the adoption is granted by the court. The agency will notify the parent if the child is not adopted by the petitioners to determine the parent's further plans for the child. The parent must keep the agency informed of his or her address.

(M) The parent has received enough information about the prospective adoptive parents and wishes to proceed with signing the adoption placement agreement.

(N) The statements required by subsections 35095.1(b)(1)(N) through (BB).

(O) The parent has considered the reasons for placing or not placing the child for adoption and has decided that to place the child for adoption with the petitioners is in the best interest of the child.

(P) The Statement of Understanding for the parent who placed the child subject to the provisions of the ICWA for adoption as provided by Sections 35094.2 and 35094.3 is the AD 927.

(23) For the parent who did not give physical custody of the child to the adopting parents:

(A) through (E) (Continued)

(24) For the alleged natural father:

(A) through (I) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Sections 8621 and 9202, Family Code.

Reference: Sections 197/ 220/20/21/ 220/20/22/ 220/20/23/ 221/10/ 221/12/ 221/20/ 221/74/ 221/76/ 221/80/ 224/10/ 224/36/ 224/44/ 224/61/ 224/62/ 224/64/ 224/70/ 224/73/ 228/10/ 229/20/ 229/30/ 229/40/ 229/50/ 229/60/ 1798.24(r), and 1798.24(s), 7001/ 7002/ 7003/ 7004/ 7017/ and 7017/2/ Civil Code; Sections 6408 and 6408.5, Probate Code; and 25 USC Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917; Sections 3010, 7540, 7541, 7601, 7602, 7610, 7611, 7612, 7660, 7661, 7662, 7663, 7664, 7665, 8600, 8601, 8604, 8605, 8606, 8608, 8616, 8617, 8618, 8619, 8800, 8801, 8801.3, 8801.5, 8804, 8808, 8813, 8814, 8815, 8817, 8818, 9100, 9200, 9201, 9202, 9203, 9204, 9205, and 9206, Family Code.

Amend Section 35097 to read:

35097 DETERMINATION OF PARENT'S ABILITY TO UNDERSTAND CONTENT, 35097  
NATURE AND EFFECT OF CONSENT

- (a) The agency ~~representative~~ shall determine that the consenting parent has the ability to understand the nature, content, and effect of signing a consent to adoption.
- (1) If the agency ~~representative~~ determines that the parent may not have the ability to understand the content, nature, and effect of signing a consent to adoption, the agency ~~representative~~ shall refer the parent to a licensed physician or to a licensed clinical psychologist for an evaluation of the parent's ability to so understand.

(A) (Continued)

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 224.40 and 224.42, Civil 8806 and 8807, Family Code.

Amend Section 35099 to read:

35099      ACCEPTING MOTHER'S CONSENT TO ADOPTION  
            OF NEWBORN   (Continued)

35099

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:      Sections ~~224/40 and 224/62/ Civil~~ 8806 and 8814, Family Code;  
                  and 25 U/S/C/ 1901 et seq.

Amend Section 35101 to read:

35101        ACCEPTING CONSENT FROM PARENT IN PSYCHIATRIC TREATMENT        35101

(a) The agency shall accept a consent to adoption from a parent who is receiving inpatient or outpatient psychiatric treatment for mental illness only after the parent's ability to understand the nature, content, and effect of signing a consent to adoption has been established by a written evaluation signed by the attending physician or licensed clinical psychologist.

(1) Counseling related to placement of the child for adoption, the resolution of marital problems, or similar decision making shall not be considered psychiatric treatment.

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:        Sections ~~224/40 and 224/62/ 01711~~ 8806 and 8814, Family Code.

Amend Section 35103 to read:

35103      ACCEPTING CONSENT FROM PARENT UNDER CONSERVATORSHIP  
            (Continued)

35103

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554,  
                  Welfare and Institutions Code.

Reference:      Sections ~~224/40 and 224/62/ Civil~~ 8806 and 8814, Family Code.

Amend Section 35105 to read:

35105      ACCEPTING CONSENT FROM PARENT IN OR ON  
            LEAVE FROM A PSYCHIATRIC FACILITY

35105

(a) (Continued)

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:      Sections ~~224140 and 224162/ Civil~~ 8806 and 8814, Family Code.

Amend Section 35107 to read:

35107      PROCEDURE WHEN AGENCY IS UNABLE TO ACCEPT CONSENT

35107

(a)    (Continued)

HANDBOOK BEGINS HERE

- (1)    See Section 35123 regarding the duty to file a report to the court when there is a serious question concerning the availability of consent to the adoption.

HANDBOOK ENDS HERE

Authority Cited:    Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:          Sections ~~224/40 and 224/62/ Civil~~ 8806 and 8814, Family Code.



Amend Section 35109 to read:

35109 PROCEDURES FOR ACCEPTING CONSENTS SIGNED IN CALIFORNIA

35109

(a) Reserved

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

(1) (Continued)

(2) The signature of the agency ~~representative~~ on a properly completed and signed consent to adoption shall verify that the agency has determined that the consenting parent has the capacity to understand the nature, content, and effect of a consent to adoption.

(3) When the child is not subject to the Indian Child Welfare Act, the following consent documents shall be used for taking the consent of:

(A) The parent placing the child pursuant to Section 35094.2: AD 924.

(B) A mother or presumed father not denying paternity: AD 1A.

(C) A presumed father denying paternity: AD 165.

(D) An alleged father not denying paternity: AD 594.

(E) An alleged father denying paternity: AD 588.

(F) An alleged father waiving right to further notice: AD 590.

(4) When the child is subject to the Indian Child Welfare Act, the following consent documents shall be used for taking the consent of:

(A) The parent placing the child pursuant to Section 35094.2: AD 925.

(B) A mother or presumed father not denying paternity: AD 859.

(C) A presumed father denying paternity: AD 860.

(D) An alleged father not denying paternity: AD 861.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Section 8621, Family Code.

Reference: Sections 1971, 221/231, 224/401, and 224/621, Civil 3010, 8604, 8605, 8606, 8806 and 8814, Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35111 to read:

35111 PROCEDURES FOR ACCEPTING OUT-OF-STATE  
CONSENTS NOT INITIATED BY THE AGENCY

35111

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

- (1) The consent is notarized in accordance with Civil Family Code Section 224/62/67 8814(c).

HANDBOOK BEGINS HERE

- (A) Civil Family Code Section 224/62/67 8814(c) reads in part states:

"If the birth parent of a child to be adopted is outside the State of California at the time of signing consent, his or her consent may be signed before a notary or other person authorized to perform notarial acts and in that case the consent of the department or of a delegated county adoption agency will also be necessary."

"If the birth parent described in subdivision (a) is located outside this state for an extended period of time unrelated to the adoption at the time of signing the consent, the consent may be signed before a notary or other person authorized to perform notarial acts, and in that case the consent of the department or of the delegated county adoption agency is also necessary."

HANDBOOK ENDS HERE

- (2) The consent is properly completed on a form which contains the same content as the form prescribed by the Department in accordance with Civil Family Code Section 224/62 8814(a).

HANDBOOK BEGINS HERE

- (A) Family Code Section 8814(a) states:

"The consent of the birth parent or parents who did not place the child for adoption as described in Section 8801.3 to the adoption shall be signed in the presence of an agent of the department or of a delegated county adoption agency on a form prescribed by the department. The consent shall be filed with the clerk of the appropriate superior court."

HANDBOOK ENDS HERE

(3) When the child is not subject to the Indian Child Welfare Act, the following consent documents shall be used for taking the out-of-state consent of:

(A) A mother or presumed father not denying paternity: AD 1C.

(B) A mother or presumed father not denying paternity and in the armed forces: AD 1F.

(C) A presumed father denying paternity: AD 166.

(D) An alleged father not denying paternity in the armed forces: AD 842.

(E) An alleged father not denying paternity: AD 594.

(F) An alleged father denying paternity: AD 588.

(G) An alleged father waiving right to further notice: AD 590.

(4) When the child is subject to the Indian Child Welfare Act, the following consent documents shall be used for taking the out-of-state consent of:

(A) A mother or presumed father not denying paternity: AD 859.

(B) A presumed father denying paternity: AD 860.

(C) An alleged father not denying paternity: AD 861.

(5) (Continued)

(A) Affirmed his/ or her understanding of the consent process by reading and initialing each explanatory statement on the Statement of Understanding form.

(6) (Continued)

(7) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Section 8621, Family Code.

Reference: Section ~~224/62/ Civil~~ 8814, Family Code; and U/S/C/ 1901 et seq.

Amend Section 35113 to read:

35113 PROCEDURES FOR ACCEPTING OUT-OF-STATE  
CONSENTS WHICH ARE INITIATED BY THE AGENCY

35113

(a) Reserved

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

- (1) In the event that there is no authorized agency able and willing to provide these services in a timely manner in the other state, the agency shall send the consent directly to the consenting parent.
- (2) The agency shall ensure that requests for out-of-state agency services from states which are members of the Interstate Compact on the Placement of Children (ICPC) comply with ICPC regulations as contained in the Title 22/ California Code of Regulations/ Section 35391 commencing with Section 35401.

HANDBOOK BEGINS HERE

(A) The consent forms are located at Section 35111(b)(3) and 35111(b)(4).

~~(A)~~ (Continued)

~~(B)~~ (Continued)

~~(C)~~ (Continued)

~~(D)~~ (Continued)

~~(E)~~ (Continued)

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and  
Section 8621, Family Code.

Reference: Section 10553(e), Welfare and Institutions Code; Sections 224/40  
and 224/62/ Civil 8806 and 8814, Family Code; and 25 U/S/C/  
1901 et seq.

Amend Section 35115 to read:

35115 COPY OF SIGNED CONSENT TO PARENT AND/OR  
ATTORNEY OF RECORD

35115

(a) The agency ~~representative~~ shall give the consenting parent a copy of the completed and signed consent to adoption.

(1) (Continued)

(A) The copy of the signed consent shall be sent to the petitioners if they are not represented by legal counsel.

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10553(e), Welfare and Institutions Code; and Sections ~~224/40 and 224/62/ Civil~~ 8806 and 8814, Family Code.

Amend Section 35117 to read:

35117            INFORMATION TO THE CONSENTING PARENT  
                 REGARDING THE STATUS OF THE CHILD'S ADOPTION

35117

- (a) At the time of signing the consent to adoption, the agency shall advise the consenting parent, verbally and in writing, of the provisions of Civil Family Code Section 224/§1 8813.

HANDBOOK BEGINS HERE

- (1) Civil Family Code Section 224/§1 8813 reads as follows states:

When or before the time a consent to adoption is signed, the birth parent signing the consent shall be advised verbally and in writing by the department or the delegated county adoption agency, that he or she may, at any time in the future, request from the department or the delegated county adoption agency, all known information about the status of the child's adoption, except for personal, identifying information about the adoptive family. The birth parent shall be advised that this information includes, but is not limited to, all of the following: (a) whether the child has been placed for adoption, (b) the approximate date that an adoption was completed, and (c) if the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered."

"At or before the time a consent to adoption is signed, the department or delegated county adoption agency shall advise the birth parent signing the consent, verbally and in writing, that the birth parent may, at any time in the future, request from the department or agency, all known information about the status of the child's adoption, except for personal, identifying information about the adoptive family. The birth parent shall be advised that this information includes, but is not limited to, all of the following:

"(a) Whether the child has been placed for adoption.

"(b) The approximate date that an adoption was completed.

"(c) If the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered."

HANDBOOK ENDS HERE

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224/§1/ Civil 8813, Family Code.

Repeal Section 35119 to read:

35119      Reserved PRESENTATION OF REQUIRED STATEMENT TO  
            CONSENTING PARENT

35119

1a) At the time of signing the consent to adoption, the agency shall present a statement to the consenting parent as required by Civil Code Section 224.73 and obtain a response from and the signature of the parent.

HANDBOOK BEGINS HERE

11) This is form AD 908

12) The content of Civil Code Section 224.73 is set forth at Section 35121.1a)1b)1b1)

HANDBOOK ENDS HERE

Authorily cited: Sections 10333 and 10334, Welfare and Institutions Code.

Reference: Section 224.73, Civil Code.

Amend Section 35121 to read:

35121 . ADDITIONAL REQUIREMENTS FOR ACCEPTING CONSENT

35121

(a) (Continued)

(1) and (2) (Continued)

- (3) Provide the birth parents with a copy of the Adoptions Information Act Statement pursuant to Family Code Section 8818.

HANDBOOK BEGINS HERE

(A) This is Form AD 908 is for the birth parents.

(B) Form AD 4310 is for the prospective adoptive parents.

(BY) 1. Civil Family Code Section 224/73 8818 reads as follows states:

"(a) The department shall adopt a statement to be presented to the birth parents at the time the consent to adoption is signed and to prospective adoptive parents at the time of the home study which. The statement shall, in a clear and concise manner/ and in words calculated to assure ensure the confidence of the birth parents in the integrity of the adoption process, communicate to the birth parent of a child who is the subject of an adoption petition all of the following facts:

"(1) It is in the child's best interest of the child that the birth parents keep the department informed of any health problems that the parent develops that could affect the child.

"(2) It is extremely important that the birth parent keep his or her an address current with the department in order to permit a response to any inquiries to the department of licensed adoption agency concerning medical or social history.

"(3) Section 229/40 of the Civil 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to petition request the department to petition disclose the name and address of his or her the adoptee's birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether or not he or she wishes his or her name and address to be disclosed to allow this disclosure by checking the appropriate box provided on the form.



"(4) The birth parent may change his or her the decision as to whether or not he or she wishes his or her to permit disclosure of the birth parent's name and address disclosed, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the department.

"(5) The consent will be filed in the office of the county clerk of the county in which the adoption takes place. The file is not open to inspection by any persons other than the parties to the adoption proceedings, their attorneys, and the department, except upon order of ~~the~~ a judge of the superior court.

"(b) The department shall adopt a form to be signed by the birth parents at the time the consent to adoption is signed, which shall provide as follows:

"Section 229/40 9203 of the Civil Family Code authorizes a person who has been adopted and who attains the age of 21 years to petition make a request to the State Department of Social Services, or the licensed adoption agency that joined in the adoption petition, for his or her adoption to provide the name and address of his or her the adoptee's birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

( ) YES

( ) NO

( ) UNCERTAIN AT THIS TIME/; WILL NOTIFY AGENCY AT LATER DATE"

HANDBOOK ENDS HERE

(4) (Continued)

(A) If the agency is unable to locate the birth parent, the agency shall accept the commitment of the child under Civil Family Code Section 224/37 8805.

HANDBOOK BEGINS HERE

1. The requirements of Civil Family Code Section 224/37 8805 are found located at Section 35125(b)(3)(A).

HANDBOOK ENDS HERE

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 224/37/ 224/37/ and 224/77/ Civil 8805, 8813, and 8818, Family Code.

Adopt a new Section 35122 to read:

35122      REVOCATION OF CONSENT AND WAIVER OF RIGHT TO REVOKE CONSENT      35122

- (a) Revocation of a consent to adoption, including an adoption placement agreement, and waiver of the right to revoke consent are governed by Family Code Sections 8801.7, 8814.5, and 8815.

HANDBOOK BEGINS HERE

- (1) Family Code Section 8814.5, in pertinent part, states:

"(Aa) After a consent to the adoption is signed by the birth parent or parents pursuant to Section 8801.3 or 8814, the birth parent or parents signing the consent shall have 90 days to take one of the following actions:

"(1) Sign and deliver to the department or delegated county adoption agency a written statement revoking the consent and requesting the child to be returned to the birth parent or parents.

"(2) Sign a waiver of the right to revoke consent on a form prescribed by the department in the presence of a representative of the department or delegated county adoption agency. If neither a representative of the department nor a representative of a delegated county adoption agency is reasonably available, the waiver of the right to revoke consent may be signed in the presence of a judicial officer of a court of record if the birth parent is represented by independent legal counsel. 'Reasonably available' means that a representative from either the department or the delegated county adoption agency is available to accept the signing of the waiver within 10 days and is within 100 miles of the location of the birth mother.

"The waiver of the right to revoke consent may not be signed until an interview has been completed by the department or delegated county adoption agency unless the waiver of the right to revoke consent is signed in the presence of a judicial officer of a court of record as specified in this section. Within 10 working days of a request made after the department, the delegated county adoption agency, or the court has received a copy of the petition for the adoption and the names and addresses of the persons to be interviewed, the department, the delegated county adoption agency or the court shall interview, at the department or agency office or the court, any birth parent requesting to be interviewed. However, the interview, and the witnessing of the signing of a waiver of the right to revoke consent of a birth parent residing outside of California or located outside of California for an extended period of time unrelated to the adoption may be conducted in the state where the birth parent is located, by any of the following:

"(A) A representative of a public adoption agency in that state.

"(B) A judicial officer in that state where the birth parent is represented by independent legal counsel.

"(C) An adoption service provider."

"(3) Allow the consent to become a permanent consent on the 91st day after signing.

"(b) The consent may not be revoked after a waiver of the right to revoke consent has been signed or after 90 days beginning on the date the consent was signed, whichever occurs first."

(2) Family Code Section 8815, in pertinent part, states:

"(a) Once the revocable consent to adoption has become permanent as provided in Section 8814.5, the consent to the adoption by the prospective adoptive parents may not be withdrawn.

"(b) Before the time when the revocable consent becomes permanent as provided in Section 8814.5, the birth parent or parents may request return of the child. In such a case the child shall immediately be returned to the birth parent or parents so requesting.

"(c) If the person or persons with whom the child has been placed have concerns that the birth parent or parents requesting return of the child are unfit or present a danger of harm to the child, that person's or those persons' only option is to report their concerns to the investigating adoption agency and the appropriate child welfare agency. These concerns shall not be a basis for failure to immediately return the child..."

(3) Family Code Section 8801.7(b), in pertinent part, states:

"(b) ... If the birth parent wishes to revoke the consent, the adoption service provider shall assist the birth parent in obtaining the return of the child."

HANDBOOK ENDS HERE

(b) The following additional procedures shall be followed if the birth parent wishes to revoke consent:

(1) The written statement to revoke consent may be made on the AD 928 form or by any other written statement.

(2) If requested, the agency shall assist the birth mother or presumed father in obtaining the return of the child if such assistance is not being given by an adoption service provider.

(3) The agency shall inform the alleged natural father who revokes his consent that he must take court action to establish the father and child relationship before seeking return of the child and that he has the right to seek legal counsel.

(c) The following additional procedures shall be followed if the birth parent wishes to waive his or her right to revoke consent:

- (1) The interview(s) with the birth parent shall include the material required by Section 35095.
- (2) The waiver of the right to revoke consent shall be made on the AD 929.
- (3) A birth parent who did not place the child for adoption as described in Section 35094.2 and who signs a consent to adoption may sign a waiver of right to revoke consent at the same time he or she signs the consent to adoption.
- (4) A parent of an Indian child may not waive his or her right to revoke consent.

Authority Cited: Section 8621, Family Code. Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 7630, 8801.7, 8808, 8814, 8814.5, 8815, Family Code; 25 USC 1913.

Renumber Article 4 to Article 5 and amend Section 35123 to read:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS

Article ~~4~~ 5 Finalization of Adoption

35123 CONTENT OF COURT REPORT AND REQUIREMENT FOR FILING

35123

(a) (Continued)

(1) (Continued)

(2) (Continued)

(A) through (C) (Continued)

HANDBOOK BEGINS HERE

(D) ~~Civil Code Section 224/42/ in pertinent part/ reads as follows/~~

~~//////In those cases in which the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption/ the report shall be filed immediately/////~~

Family Code Section 8807(b) states:

"In a case where the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption, the report shall be filed immediately."

HANDBOOK ENDS HERE

(3) The agency ~~representative~~ shall immediately file a ~~preliminary~~ court report when there is a serious question whether the placement of the child for purposes of adoption was made in accordance with provisions of ~~Civil~~ Family Code Section ~~224/20~~ 8801.3.

HANDBOOK BEGINS HERE

(A) The content of ~~Civil~~ Family Code Section ~~224/20~~ 8801.3 is located at Section ~~35095(a)(6)(A)(2)~~ 35094.3(b)(1).

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code.

Reference: Sections ~~224/20/ 224/42/ and 224/49/ Civil~~ 8801.3, 8807, and 8811, Family Code.

Renumber existing Article 5 to 6 and amend Section 35125 to read:

Article 5 6 Procedures in Denials and Commitments

35125 PLANNING FOR THE CHILD WHEN CONSENT IS WITHDRAWN,  
THE PETITION IS WITHDRAWN OR DISMISSED, OR THE AGENCY  
RECOMMENDS REMOVAL OF THE CHILD

35125

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) The agency shall be responsible for reporting to the court and recommending a suitable plan for the care and custody of the child in accordance with Civil Family Code Section 224/84 8815 when:

- (1) Prior to the entry of a final decree of adoption the birth parent indicates orally or in writing that he/ or she wishes to withdraw his/ or her consent.

HANDBOOK BEGINS HERE

(A) Civil Code Section 224/84/ in pertinent part/ reads as follows/

7(a) Once given/ consent of the birth parents to the adoption of the child by the person or persons to whose adoption of the child the consent was given/ may not be withdrawn except with court approval/ Request for that approval may be made by motion/ or a birth parent seeking to withdraw his or her consent may file with the clerk of the superior court where the petition is pending/ a petition for approval of withdrawal thereof/ without the necessity of payment of any fee for the filing of the petition/ The petition or motion shall be in writing/ and shall set forth the reasons for withdrawal of consent/ but otherwise may be in any form/

7(b) The clerk of the court shall set the matter for hearing/ and shall give notice thereof to the department/ to the persons to whose adoption of the child the consent was given/ and to the birth parent or parents by certified mail/ return receipt requested/ to the address of each as shown in the proceeding/ at least 10 days before the time set for hearing/

7(c) Agency shall/ prior to the hearing of the motion or petition for withdrawal/ file a full report with the court and shall appear at the hearing to represent the interests of the child/

1d) If the court finds that withdrawal of the consent to adoption is reasonable in view of all the circumstances and that withdrawal of the consent will be for the best interests of the child, the court shall approve the withdrawal of the consent; otherwise the court shall withhold its approval. If the court approves the withdrawal of consent, the adoption proceeding shall be dismissed.

1e) Any order of the court granting or withholding approval of a withdrawal of a consent to an adoption may be appealed in the same manner as an order of the juvenile court declaring any person to be a ward of the juvenile court.

Family Code Section 8815, in pertinent part, states:

"(a) Once the revocable consent to adoption has become permanent as provided in Section 8814.5, the consent to the adoption by the prospective adoptive parents may not be withdrawn.

"(b) Before the time when the revocable consent becomes permanent as provided in Section 8814.5, the birth parent or parents may request return of the child. In such a case the child shall immediately be returned to the birth parent or parents so requesting.

"(c) If the person or persons with whom the child has been placed have concerns that the birth parent or parents requesting return of the child are unfit or present a danger of harm to the child, that person's or those persons' only option is to report their concerns to the investigating adoption agency and the appropriate child welfare agency. These concerns shall not be a basis for failure to immediately return the child. . ."

HANDBOOK ENDS HERE

- (2) The petitioners' desire to withdraw or to secure dismissal of the adoption petition in accordance with Civil Family Code Section 224/36 8804.

HANDBOOK BEGINS HERE

- (A) Civil Code Section 224/36 reads:

1a) Whenever the petitioners move to withdraw the petition for the adoption or to dismiss the proceeding, the clerk of the court in which the proceeding is pending shall immediately notify the department at Sacramento of that action. The department or the delegated county adoption agency shall file a full report with the court recommending a suitable plan for the child in every such case in which the petitioners move to withdraw the petition for the adoption or where the department or the delegated county adoption agency recommends that the petition for adoption be denied and shall appear before the court for the purpose of representing the child.





Family Code Section 8805 states:

"At the hearing, if the court sustains the recommendation of the department or delegated county adoption agency that the child be removed from the home of the petitioners because the department or agency recommends denial or if the petitioners move to withdraw the petition or if the court dismisses the petition and does not return the child to the birth parents, the court shall commit the child to the care of the department or delegated county adoption agency, whichever made the recommendation, for the department or agency to arrange adoptive placement or to make a suitable plan. In those counties not served by a delegated county adoption agency, the county welfare department shall act as the agent of the department and shall provide care for the child in accordance with rules and regulations established by the department."

HANDBOOK ENDS HERE

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 224/18/ 224/17 and 224/84/ Civil 8804, 8805, and 8815, Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35126 to read:

35126 DENIAL OR DISMISSAL OF ADOPTION PETITION

35126

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

(1) and (2) (Continued)

(3)(A) through (D) (Continued)

HANDBOOK BEGINS HERE

(E) Welfare and Institutions Code Section 16106 ~~reads as follows~~  
states:

"The state shall reimburse each county for the costs of care of any child placed under the custody of a county department pursuant to Section ~~224/37 of 226/66 of the Civil~~ 8805 or 8918 of the Family Code. County claims for reimbursement of expenses incurred pursuant to Section ~~224/37 of 226/66 of the Civil~~ 8805 or 8918 of the Family Code shall be filed with the department at the time and in the manner specified by the department, and the claims shall be subject to audit by the department. Whenever a claim covering a prior fiscal year is found to have been in error, adjustment may be made on a current claim without the necessity of applying adjustment to the appropriation for the prior fiscal year."

HANDBOOK ENDS HERE

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 224/36/ 224/37/ and 224/64/ Civil 8804, 8805, 8815, and 8918, Family Code; Section 1500, Health and Safety Code; Section 11166, Penal Code; and 25 U/S/C/ 1901 et seq.

35127/1 ADVICE TO BIRTH PARENTS-INDEPENDENT  
ADOPTION PREPLACEMENT PROGRAM

35127/1

- 1a) The agency shall meet with the birth parent wishing to participate in the independent adoption preplacement program prior to the placement of the child for adoption and give advice, collect information, and offer counseling as required by civil code section 224/30(b)/

HANDBOOK BEGINS HERE

- 11) Civil code section 224/30(b)/ in pertinent part/ states/

////The advice shall include a balanced presentation of the alternatives to adoption/ the right to obtain additional counseling/ the right to retain separate legal counsel/ the meaning of the consent to adoption/ the right to future information about the status of the adoption/ the needs of the child and the prospective adoptive parents for complete information on the background of the child/ the content of the assessment of the prospective adoptive family/ and other information determined necessary by the department/ The person giving the advice shall also collect information on the background of the child from the person being advised/

Each person advised pursuant to this subdivision shall be offered at least three separate counseling sessions/ to be held on different days/ except that this requirement does not apply to birth fathers from whom consent for the adoption is not required/ Each counseling session shall be no less than 30 minutes duration/ The counseling may be provided by a representative of the department or a licensed adoption agency or by persons licensed to provide psychotherapy or counseling selected by the person/ The counseling costs shall be paid by the prospective adoptive parents at the request of the birth parents/ If counseling is requested prior to the placement of the child for adoption/ it shall be initiated prior to the placement////

HANDBOOK ENDS HERE

- 1b) A birth mother of a newborn shall not be advised while she is hospitalized/
- 1c) As part of the balanced presentation the agency shall provide the birth parent with a full explanation of each of the statements on the appropriate independent adoption statement of understanding form as provided by sections 35093/ 35093/1 and 35093/2 and shall determine that the birth parent understands the meaning of each statement/
- 11) The independent adoptions statements of understanding are/

AD 887 For parent who gave physical custody of the child to adoptive parents 1/30/01

- AD 887A For Legal Parent Who Did Not Give Physical Custody of the Child to the Adoptive Parents 12/90Y
- AD 887B For Alleged Natural Father 12/90Y
- AD 900 For the Parent Who Gave Physical Custody of the Indian Child to the Adoptive Parents 12/90Y
- AD 900A For Legal Parent Who Did Not Give Physical Custody of the Child to the Adoptive Parents 12/90Y
- AD 900B For Alleged Natural Father of Indian Child 12/90Y

- 1d) Advice regarding alternatives to adoption shall include complete information regarding public and private services which could help the parent keep the child and temporary foster care services to give the parent time to make a decision regarding keeping or placing the child.
- 1e) The agency shall collect background information about the birth parent and child, if born, as required by Section 13023.
- 1f) The agency shall inquire of the birth mother about the identity of the birth father as required by Civil Code Section 7017(c).
- 1g) The agency shall document the provision of the advice and, if desired by the birth parent, counseling on the confirmation of advice AD 913 11/89 form. At the request of the person advised, the agency shall provide this completed form, a copy of the summary of the family assessment given to the person advised, the background information about the parent and documentation of the inquiry about the identity of the birth father to the Department of County Welfare Department investigating a proposed adoption.

Authority Cited: Sections 10533 and 10534, Welfare and Institutions Code; and Section 224130(h), Civil Code.

Reference: Sections 224130 and 7017, Civil Code.

35127/2 ASSESSMENT OF POTENTIAL ADOPTIVE PARENTS +  
INDEPENDENT ADOPTION PREPLACEMENT PROGRAM

35127/2

- (a) The agency shall assess potential adoptive parents wishing to participate in the Independent Adoption Preplacement Program as required by Civil Code Section 224/30/cy/

HANDBOOK BEGINS HERE

- (1) Civil Code Section 224/30/cy/ in pertinent part/ states/

"/The assessment shall be completed or updated within 12 months before the placement of the child for adoption/ The assessment shall include consideration of those factors required by the department in a study to determine whether the prospective adoptive family and its home are suitable for a child/ except those factors regarding the adjustment of the child in the home/ In addition to describing fully information collected in the assessment and the conclusions of the assessment/ the report of the assessment shall specify the characteristics of a child which the family would adopt including/ but not limited to/ age/ sex/ ethnicity/ race/ and special needs/ The prospective adoptive parents and any person being advised pursuant to subdivision (b) shall be provided with a written summary of the report of the assessment/"/

HANDBOOK ENDS HERE

- (b) Assessment interviews shall be conducted as described in Sections 35083(a)/ (1) through (4) except that the time limit in 35083(a)/ (1) does not apply/
- (c) The agency shall discuss the information described in Section 35083 with the prospective adoptive parents/
- (d) The agency shall obtain the documentation to facilitate assessment described in Section 35087/
- (1) A licensed private adoption agency shall obtain an FBI criminal record clearance as described in Section 35193(a)/ (b)/ (c) for prospective adoptive parents if required by Section 35087(a)/ (b)/
- (e) The agency shall obtain identifying information and evaluate the prospective adoptive parents as described in Section 35089/
- (f) The agency shall make a complete written report of the assessment of the prospective adoptive family/ At the family's request the agency shall provide a copy of the complete report/ including copies of all reports received by the agency regarding the family/ to the Department of County Welfare Department investigating a proposed adoption by the prospective adoptive parents/
- (g) The agency shall meet the requirement of Civil Code Section 224/30/cy/ regarding assessments in which there is a serious question about the suitability of the family/

HANDBOOK BEGINS HERE

11) Civil Code Section 224/30(CY) in pertinent part/ states

"/"/"/If the assessment results in a determination that there is a serious question as to the suitability of the prospective adoptive family/ or if the assessment is discontinued prior to completion because of such a question/ the department or the adoption agency shall provide a report of the complete assessment to the department//"/

12) The address of the SVSS Adoptions Branch is/

SVSS/Adoptions Branch  
Services Bureau  
744 P Street/ MS 19/31  
Sacramento/ California 95814

HANDBOOK ENDS HERE

13) The department shall provide a copy of the report regarding the complete or incomplete assessment in which there is a serious question about the suitability of the family to the District Office of county welfare department investigating a subsequent petition filed by the prospective adoptive family/

Authority cited/ Sections 10553 and 10554/ Welfare and Institutions Code/ and Section 224/30(HY)/ Civil Code/

Reference/ Section 224/30/ Civil Code/

ARTICLE 1/ DEFINITIONS AND CONDITIONS

35400 DEFINITIONS

35400

(a) (1) "Appropriate public authority" means the state's interstate compact administrator/

(b) (Reserved)

(c) (1) "California Agency" means a CDSS Adoptions district office or a licensed public or private adoption agency/

(2) "CDSS" means the California Department of Social Services/

(d) (Reserved)

(e) (Reserved)

(f) (Reserved)

(g) (Reserved)

(h) (Reserved)

(i) (1) "ICPC" means interstate compact on the placement of children/

(2) "ICPC 100A (Rev. 10/91)" means the CDSS form "Interstate Compact Placement Request"/

(3) "ICPC 100B (Rev. 10/91)" means the CDSS form "Interstate Compact Report on Child's Placement Status"/

(j) (Reserved)

(k) (Reserved)

(l) (Reserved)

(m) (Reserved)

(n) (Reserved)

(o) (Reserved)

(p) (1) "Party state" means a state which is a member of the interstate compact on the placement of children/

(2) "Placement" means the arrangement for the care of a child in a family that has been studied and approved for adoption or has had a preplacement interview completed by a licensed adoption agency/

13Y 'Prospective Adoptive Parent' is defined at Civil Code Section 220/2010Y

HANDBOOK BEGINS HERE

1AY The content of Civil Code Section 220/2010Y is located at Section 3500010Y10Y1

HANDBOOK ENDS HERE

10Y 1Reserved

11Y 1Y 'Receiving Agency in the Independent Adoptions Program' means the person(s) who is designated to receive a child from another party state with the intention of filing a petition to adopt that child.

12Y 'Receiving Agency in the Relinquishment Adoptions Program' means a licensed adoption agency or SSSS Adoptions District Office that is designated to receive any child from another party state for the purpose of adoption.

13Y 1Y 'Sending Agency in the Independent Adoptions Program' means the birth parent(s) who sends/ brings/ or causes to be sent or brought any child to another party state for the purpose of adoption.

12Y 'Sending Agency in the Relinquishment Adoptions Program' means a licensed adoption agency or SSSS Adoptions District Office that sends/ brings/ or causes to be sent or brought any child to another party state for the purpose of adoption.

13Y 'Sending State in the Independent Adoptions Program' means the state of residence of the birth parent placing a child for adoption in California. The child being placed is deemed to have been brought into California from the sending state regardless of the child's place of birth, including California.

11Y 1Reserved

10Y 1Reserved

10Y 1Reserved

10Y 1Reserved

10Y<sup>3</sup> 1Reserved

10Y 1Reserved

12Y 1Reserved

Authority Cited: Sections 10553 and 10554/ Welfare and Institutions Code/

Reference: Section 16100/ Welfare and Institutions Code/ Section 1302/ Health and Safety Code/ and Section 7900/ Family Code/



Amend Section 35000 to read:

35000 DEFINITIONS

35000

(a) (1) through (4) (Continued)

(5) "Adoption Service Provider" means adoption service provider as defined at Family Code Section 8502.

(A) (Reserved)

(6) "Adoptive Parent" means adoptive parent as defined at ~~Family~~ Family Code Section ~~220/20/4~~ 8503.

(A) (Reserved)

(7) (Continued)

(8) "Agency Adoption" means agency adoption as defined at ~~Family~~ Family Code Section ~~220/20/8~~ 8506.

(A) (Reserved)

(9) (Continued)

(10) "Applicant" means ~~an~~ applicant as defined at ~~Family~~ Family Code Section ~~220/20/6~~ 8509.

(A) (Reserved)

(11) "Appropriate Public Authority" means, for the purpose of the ICPC, the state's Interstate Compact Administrator.

(b) (1) "Birth Parent" means ~~a~~ birth parent as defined at ~~Family~~ Family Code Section ~~220/20/4~~ 8512.

(A) (Reserved)

(c) (1) "California Agency" means, for the purpose of the ICPC, a CDSS Adoptions district office or a licensed public or private adoption agency.

(2) (Continued)

(3) "CDSS" means the California Department of Social Services or department.

(4) "Child" means child as defined at Civil Code Section 220/20/4.

(5) For the purposes of intercountry adoption "child" means a foreign-born/ unmarried/ unemancipated person under the age of sixteen years.

(24) (Continued)

(35) (Continued)

(6) "CDIB" means Certificate of Degree of Indian Blood.

(37) "Consent to Adoption" means the voluntary written agreement by the birth parent with a specified person to the adoption of the child.

(A) An Independent Adoption Placement Agreement is a type of consent to adoption.

(8) (Continued)

(d) (1) (Continued)

(2) "Delegated County Adoption Agency" means delegated county adoption agency as defined at ~~01/11~~ Family Code Section 220/20/11 8515.

(A) (Reserved)

(3) "Department" means department as defined at ~~01/11~~ Family Code Section 220/20/11 8518.

(A) (Reserved)

(4) (Continued)

(e) Reserved

(f) (1) (Continued)

(A) (Reserved)

(2) "Filing of the Relinquishment Form" means the receipt by the department of a certified copy of a signed, witnessed, acknowledged and dated relinquishment form/ date and time stamped by the department/ which renders the relinquishment binding the department's receipt and acknowledgement of a certified copy of a relinquishment form that has been signed, witnessed, and dated pursuant to Articles 1 and 2 of Subchapter 5 of these regulations.

(3) through (7) (Continued)

(8) "Full-Service Adoption Agency" means full-service adoption agency as defined at ~~01/11~~ Family Code Section 220/20/11 8521.

(A) (Reserved)

(9) (Continued)

(A) (Reserved)

(g) (Continued)

(h) (Continued)

(i) (1) "ICPC" means Interstate Compact on the Placement of Children.

(2) "ICWA" means Indian Child Welfare Act.

(73) "Independent Adoption" means independent adoption as defined at Civil Family Code Section 220/20/17 8524.

(A) (Reserved)

(74) Independent Adoption Preplacement Program means the voluntary alternative procedure within the Independent Adoption Program authorized by Civil Code Section 224/30 available to prospective adoptive parents and birth parents choosing independent adoption. This alternative procedure provides for preplacement assessment of adoptive parents and preplacement advising of birth parents.

(74) (Continued)

(75) (Continued)

(A) (Reserved)

(76) (Continued)

(A) (Reserved)

(77) (Continued)

(A) (Reserved)

(78) (Continued)

(A) (Reserved)

(79) (Continued)

(A) (Reserved)

(80) (Continued)

(A) (Reserved)

(81) (Continued)

(A) (Reserved)

(82) (Continued)

(A) (Reserved)

(123) "Intercountry Adoption" means intercountry adoption as defined at ~~01711~~ Family Code Section 220/20/11 8527.

(A) (Reserved)

(j) Reserved

(k) Reserved

(l) (1) "Licensed Adoption Agency" means licensed adoption agency as defined at ~~01711~~ Family Code Section 220/20/11 8530.

(A) (Reserved)

(m) (Continued)

(n) (1) "Noncustodial Adoption Agency" means noncustodial adoption agency as defined at ~~01711~~ Family Code Section 220/20/11 8533.

(A) (Reserved)

(2) (Continued)

(o) Reserved

(p) (1) (Continued)

(2) (Continued)

(A) (Reserved)

(3) (Continued)

(4) "Party State" means, for the purpose of the ICPC, a state which is a member of the Interstate Compact on the Placement of Children.

(45) "Personal Knowledge" means personal knowledge as defined at ~~01711~~ Family Code Section 220/20/11 8801(b).

(A) (Reserved)

1. Substantially correct means accurate in the agency's judgment.

15) ~~"Petitioner" means petitioner as defined at Civil Code Section 220/20/11~~

(6) "Place for Adoption" means place for adoption as defined at ~~01711~~ Family Code Section 220/20/11 8539.

(A) (Reserved)

(7) "Placement" means, for the purpose of the ICPC, the arrangement for the care of a child in a family that has been studied and approved for adoption or has had a preplacement interview completed by a licensed adoption agency.

(78) "Presumed Father" means a father as defined at ~~0111~~ Family Code Section 7004 7611.

(A) (Reserved)

(89) "Prospective Adoptive Parent" means prospective adoptive parent as defined at ~~0111~~ Family Code Section 220/20/0Y 8542.

(A) (Reserved)

(q) Reserved

(r) (1) "Receiving Agency in the Independent Adoptions Program" means, for the purpose of the ICPC, the person(s) who is designated to receive a child from another party state with the intention of filing a petition to adopt that child.

(2) "Receiving Agency in the Relinquishment Adoptions Program" means, for the purpose of the ICPC, a licensed adoption agency or CDSS Adoptions district office that is designated to receive any child from another party state for the purpose of adoption.

(13) (Continued)

(24) (Continued)

(35) (Continued)

(46) (Continued)

(57) (Continued)

(s) (1) (Continued)

(A) (Reserved)

(2) "Sending Agency in the Independent Adoptions Program" means, for the purpose of the ICPC, the birth parent(s) who sends, brings, or causes to be sent or brought any child to another party state for the purpose of adoption.

(3) "Sending Agency in the Relinquishment Adoptions Program" means, for the purpose of the ICPC, a licensed adoption agency or CDSS Adoptions district office that sends, brings, or causes to be sent or brought any child to another party state for the purpose of adoption.

(4) "Sending State in the Independent Adoptions Program" means, for the purpose of the ICPC, the state of residence of the birth parent placing

Amend Section 35001 to read:

35001        FORMS

35001

(a) (1) through (4) (Continued)

- (5) "AD 1A" (1-95) means the form entitled, "Consent to Adoption by Parent(s) in California."
- (6) "AD 1C" (1-95) means the form entitled, "Consent to Adoption by Parent(s) Outside California."
- (7) "AD 1F" (1-95) means the form entitled, "Consent to Adoption by Parent(s) Outside California in Armed Forces."
- (8) "AD 20" (7-84) means the form entitled, "Refusal to Give Consent to Adoption."
- (9) "AD 42R" (7-93) means the form entitled, "Individual Record-Relinquishment Adoptions."
- (~~§~~10) (Continued)
- (~~§~~11) (Continued)
- (12) "AD 90" (6-91) means the form entitled, "Supporting Information for Issuance of Department of Social Services Waiver and Acknowledgment."
- (~~7~~13) "AD 100" (12-93) (Continued)
- (14) "AD 165" (1-95) means the form entitled, "Consent to Adoption by Parent in California When Legal Father Denies He is the Natural Father."
- (15) "AD 166" (1-95) means the form entitled, "Consent to Adoption by Father Outside California."
- (~~§~~16) (Continued)
- (~~§~~17) (Continued)
- (~~1~~08) (Continued)
- (~~7~~19) (Continued)
- (20) "AD 508 (3-82) means the form entitled, Rescission Request/Rescission of Relinquishment."
- (~~7~~21) (Continued)
- (~~7~~22) (Continued)

- (23) "AD 551A" (5-91) means the form entitled, "Notification of Procedure in Lieu of Signing Relinquishment Waiver or Denial."
- (24) "AD 558" (3-92) means the form entitled, "Notice of Placement."
- (25) "AD 580" (5-81) means the form entitled, "Notice of Removal of Child from Adoptive Home."
- (~~14~~26) (Continued)
- (~~15~~27) (Continued)
- (~~16~~28) (Continued)
- (~~17~~29) (Continued)
- (~~18~~30) (Continued)
- (~~19~~31) (Continued)
- (~~20~~32) (Continued)
- (~~21~~33) (Continued)
- (34) "AD 594" (1-95) means the form entitled, "Consent to Adoption by Alleged Natural Father."
- (35) "AD 830" (7-87) means the form entitled, "Summary Claim for Reimbursement Private Adoption Agency Reimbursement Program."
- (36) "AD 831" (7-87) means the form entitled, "Private Adoption Agency Cost Justification for Adoptive Placement."
- (37) "AD 842" (1-95) means the form entitled, "Consent to Adoptive Placement by Alleged Natural Father (Outside California in Armed Forces)."
- (38) (Reserved)
- (39) (Reserved)
- (40) "AD 859" (1-95) means the form entitled, "Consent to Adoption of Indian Child by Parent(s) in or out of California."
- (41) "AD 860" (1-95) means the form entitled, "Consent to Adoption of Indian Child by Presumed Father in or out of California."
- (42) "AD 861" (1-95) means the form entitled, "Consent to Adoption of Indian Child by Alleged Natural Father (In or Outside of California)."
- (~~22~~43) (Continued)
- (~~23~~44) (Continued)

(~~2~~45) (Continued)

(~~2~~46) (Continued)

(~~2~~47) (Continued)

(~~2~~748) (Continued)

(~~2~~849) (Continued)

(~~2~~950) (Continued)

(51) "AD 880" (7-86) means the form entitled, "Declaration of Mother."

(~~3~~052) "AD 887" (~~1~~+~~9~~31-95) (Continued)

(~~3~~153) "AD 887A" (~~1~~+~~9~~31-95) (Continued)

(~~3~~254) "AD 887B" (~~1~~+~~9~~31-95) (Continued)

(~~3~~355) (Continued)

(~~3~~456) (Continued)

(~~3~~57) (Continued)

(~~3~~658) (Continued)

(~~3~~759) "AD 900" (~~1~~+~~9~~31-95) (Continued)

(~~3~~860) "AD 900A" (~~1~~+~~9~~31-95) (Continued)

(~~3~~961) "AD 900B" (~~1~~+~~9~~31-95) (Continued)

(~~4~~062) (Continued)

(~~4~~163) (Continued)

(~~4~~264) (Continued)

(~~4~~365) (Continued)

(66) "AD 908" (1-94) means the form entitled, "Adoptions Information Act Statement."

(67) "AD 909" (8-88) means the form entitled, "Photolisting Data Sheet."

~~444) "AD 913" (3-91) means the form entitled, "Confirmation of Advice"~~

(~~4~~368) (Continued)

(~~4~~69) (Continued)

(~~4~~70) (Continued)



- (71) "AD 924" (1-95) means the form entitled, "Independent Adoption Placement Agreement."
- (72) "AD 925" (1-95) means the form entitled, "Independent Adoption Placement Agreement - Indian Child."
- (73) "AD 926" (1-95) means the form entitled, "Statement of Understanding - Independent Adoption Program (Parent Who Signs Independent Adoption Placement Agreement)."
- (74) "AD 927" (1-95) means the form entitled, "Statement of Understanding - Independent Adoption Program (Parent of Indian Child Who Signs Independent Adoption Placement Agreement)."
- (75) "AD 928" (1-95) means the form entitled, "Revocation of Consent - Independent Adoption Program."
- (76) "AD 929" (1-95) means the form entitled, "Waiver of Right to Revoke Consent - Independent Adoption Program."
- (77) "AD 930" (1-95) means the form entitled, "Independent Adoption Placement Agreement Transmittal."
- (78) "AD 4310" (1-93) means the form entitled, "Adoption Programs Notice Required by Information Practices Act."
- (79) "AD 4311" (1-87) means the form entitled, "Information on American Indian Child (Adoption Program)."
- (80) "AD 4317" (3-82) means the form entitled, "Revocation of Relinquishment."

(481) (Continued)

(b) (1) "BID 7" (5-90) means the fingerprint card.

(c) Reserved

(d) Reserved

(e) Reserved

(f) (Continued)

(g) Reserved

(h) Reserved

(i) (1) "ICPC 100A" (10-91) means the form entitled, "Interstate Compact Application Request to Place Child."

(2) "ICPC 100B" (7-92) means the form entitled, "Interstate Compact Report on Child's Placement Status."

(j) - (z) Reserved.

(Reserved)

Authority Cited: Sections 10553 ~~and~~, 10554, 16118, and 16120 Welfare and Institutions Code; and Section 8621, Family Code.

Reference: Sections ~~222/10/ 222/20/ 224/02 and 224/70/ Civil Code/~~ Section 16105, 16118, and 16120.05, Welfare and Institutions Code/ ; Sections 8500 et seq., 8600 et seq., 8700 et seq., 8800 et seq., 8900 et seq., 9100 et seq., and 9200 et seq., Family Code.

Amend Section 35029 to read:

35029 INDEPENDENT ADOPTIONS

35029

(a) (Reserved)

(a) (Reserved)

(b) The agency shall ensure that the legal relationship that exists between the child and his/ or her parents, if living, has been terminated prior to the issuance of a final decree of adoption.

(c) (Continued)

(1) In the absence of a signed consent, parental rights shall be terminated by legal action pursuant to ~~§ 7820 et seq.~~ Family Code Sections 721/20 of 722 7820 et seq., 8604, 8605, or 8606.

(d) When there is more than one presumed father, the rights of all presumed fathers shall be terminated either by consent to adoption of the child or by legal action pursuant to ~~§ 8606 721/20 of 722.~~ Family Code Sections 7820 et seq., 8604, or 8606 721/20 of 722.

(1) (Reserved)

(A) (Reserved)

(B) (Reserved)

(2) (Reserved)

(A) (Reserved)

(3) (Reserved)

(4) (Reserved)

(5) (Reserved)

(6) (Reserved)

(e) The parental rights of all alleged natural fathers shall be terminated prior to the adoption of the child through court action or notification in accordance with ~~§ 7017 7662 and 7666~~ Family Code Sections 7017 7662 and 7666 or by the alleged natural father's signing a consent, a waiver of further notice of the adoption proceedings, or a denial of paternity.

(1) (Reserved)

(2) (Reserved)

(f) (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Sections 221/20/ 221/76/ 224/62/ 224/70/ 232/ 7004/ 7006/ and 7017/ 1183, Civil Code; Sections 7540, 7541, 7820 et seq., 8604, 8605, and 8606, Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35049 to read:

35049 RELEASE OF INFORMATION FROM AN ADOPTION CASE RECORD

35049

(a) (Reserved)

~~(a) (Reserved)~~

(b) (Continued)

- (1) The agency shall disclose information to an adoptee or the child or grandchild of an adoptee pursuant to Civil Code Section 1798.24~~(f)~~.

(A) (Reserved)

~~(2) The agency shall disclose medically necessary information pertaining to an adoptee's birth parents to the child or grandchild of an adoptee.~~

~~(A) The agency shall not include or disclose the identity of the adoptee's birth parent or parents in information provided under this section.~~

~~(3) (Reserved)~~

- ~~(4) The agency shall arrange for contact between an adult adoptee and his or her birth parent as required by Civil Family Code Section 9204.~~

~~(A) (Reserved)~~

Authority Cited: Section 1798.24, Civil Code; Section 8621, Family Code; Sections 10553, 10554, and 10850(d), Welfare and Institutions Code.

Reference: Section 10850(d), Welfare and Institutions Code; Section 9204, Family Code; Sections 229.50 and 1798.24~~(f)~~ (q) and (r), Civil Code; and 25 U/S/C/ 1901, et seq.

Amend Section 35053 to read:

35053        DISCLOSING INFORMATION TO THE ADOPTEE

35053

(a) (Reserved)

~~(a) (Reserved)~~

(b) The agency shall disclose to the adoptee upon his/ or her request the name and most current address of a birth parent of an adoptee whose relinquishment for or consent to adoption was signed on or after January 1, 1984, in accordance with the provisions of ~~§ 1711~~ Family Code Section 229/40/41 9203.

(1) (Reserved)

Authority Cited: Sections 10553, 10554, and 10850(d), Welfare and Institutions Code; and Sections 8621 and 9203, Family Code.

Reference: Section ~~229/40/41~~ § 1711 9203, Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35079 to read:

35079 INVESTIGATION OF PETITION

35079

(a) (Reserved)

~~(a) (Reserved)~~

(b) In an independent adoption, the agency shall investigate the adoption after the petition has been filed and file a court report recommending whether to grant the petition to adopt in accordance with Civil Family Code Sections 220/20/AY/ 220/20/OY/ 224/40/ 224/42/ 224/44/ and 224/50 8539, 8801(b), 8806, 8807, and 8808.

(1) (Reserved)

(2) (Reserved)

(3) (Reserved)

(4) (Reserved)

(5) (Reserved)

(A) (Reserved)

(§6) (Reserved)

(c) (Continued)

Authority Cited: Sections 10553/ and 10554, Welfare and Institutions Code;  
Section 8621, Family Code/ and Section 224/50/AY/ Civil Code.

Reference: Sections 220/20/AY/ 220/20/OY/ 224/40/ 224/42/ 224/44/ and  
224/50/ Civil 8539, 8801(b), 8806, 8807, and 8808 Family Code;  
and 25 U/S/C/ 1901 et seq.

Amend Section 35081 to read:

35081        ASSESSMENT OF PETITIONERS

35081

(a) The agency shall ~~make a written assessment of~~ assess the adoptive petitioners to determine their suitability as adoptive parents.

(1)    (Continued)

(2)    The assessment shall be documented in the adoption case record.

Authority Cited:    Sections 10553 and 10554, Welfare and Institutions Code; Section 8621, Family Code.

Reference:        Sections ~~224/40/ 224/42 and 224/44/ Civil~~ 8806, 8807, and 8808, Family Code.



Amend Section 35083 to read:

35083 ASSESSMENT INTERVIEWS (Continued)

35083

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and  
Section 8621, Family Code.

Reference: Sections 224/40/ 224/42/ and 224/44/ Civil 8806, 8807, and  
8808, Family Code.

Amend Section 35085 to read:

35085 INFORMATION TO PETITIONERS

35085

~~(a)~~ (Reserved)

(b) (Continued)

- (1) Approximate time it may take to complete each stage of the adoption process.
- (2) Statutory and regulatory requirements for adoption including confidentiality of adoption records.
- (3) The provisions of ~~§ 1711~~ Family Code Section ~~224.77~~ 8803 and Penal Code Section 280 regarding the concealment of a child.
  - (A) (Reserved)
  - (B) (Reserved)
- (4) The agency shall inform the petitioners of the law's requirement to file a report with the court on all expenditures paid by them or on their behalf in connection with the birth, placement, and adoption of the child in accordance with ~~§ 1711~~ Family Code Section ~~221.50~~ 8610.
  - (A) (Reserved)
- (5) The agency shall inform the petitioners of the provisions of ~~§ 1711~~ Family Code Section ~~224.77~~ 8818.
  - (A) (Reserved)

Authority Cited: Section 8621, Family Code; Sections 10553, 10554, and 10850(d) Welfare and Institutions Code; and Section 10439, Health and Safety Code.

Reference: Sections 1798.24(r) and 1798.24(s), 221.50/ 224.77/ 224.77/ 229.50/ 229.80/ and 229.70/ Civil Code; Sections 8610, 8803, 8818, 9204, 9205, and 9206, Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35087 to read:

35087 DOCUMENTATION TO FACILITATE ASSESSMENT

35087

(a) (Continued)

(1) Authorization for the release of medical and employment information on the petitioner.

(2) through (6) (Continued)

(7) (Continued)

(A) (Reserved)

(B) The Agency shall. . . (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Sections ~~224/40/ 224/42/ 224/44/ and 224/49/ Civil~~ 8806, 8807, 8808, and 8811, Family Code.

Amend Section 35089 to read:

35089            OBTAINING IDENTIFYING INFORMATION AND  
                 EVALUATING PETITIONERS DURING ASSESSMENT

35089

(a) (Continued)

- (1) ~~Obtaining~~ The following identifying information on the petitioner and any children and adults residing in the home:

- (A) Name, date of birth and sex.
- (B) Current address and telephone number.
- (C) Blood relationship to child, if any.
- (D) Race and ethnic background information.
- (E) Religion.
- (F) Current employment information.
- (G) Verification of marital status, if relevant.

1. (Continued)

- (i) When verification of the dissolution of any marriage of a petitioner is not possible, a marriage prior to a verified divorce decree shall be assumed to have been validly dissolved. A valid divorce presupposes that the marriage was valid.

(H) (Continued)

(2) (Continued)

(A) General characteristics.

1. (Reserved)

(B) Feelings and attitudes which may impact the adoption.

1. (Reserved)

(C) Social background.

1. (Reserved)

(D) Educational background.

(E) Financial stability.

(F) Work adjustment.

(G) (Continued)

1. (Reserved)

(3) Evaluation of:

(A) (Continued)

1. (Reserved)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections ~~224/40/~~ 224/42/ 224/44/ and 224/49/ Civil 8806, 8807, 8808, and 8811(b), Family Code; and Section 11105.2 Penal Code.

Amend Section 35091 to read:

35091 COMPLETION OF ASSESSMENT AND REPORT TO COURT

35091

(a) (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section ~~224/42/ Civil~~ 8807, Family Code.

Amend Section 35093 to read:

35093        ASSESSMENT OF CHILD

35093

(a) (Continued)

(1) (Continued)

(2) (Continued)

(A) (Reserved)

1. (Reserved)

~~(B)~~ (Reserved)

~~(C)~~ (Continued)

~~(D)~~ (Continued)

1. (Reserved)

(3) (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; Section 8608(a), Family Code.

Reference: Sections 224/40/ 224/42/ and 224/70/ Civil 8806, 8807, and 8817, Family Code.

Amend Section 35094 to read:

35094 WRITTEN REPORT ON ASSESSMENT OF CHILD TO BE  
PROVIDED TO PROSPECTIVE ADOPTIVE PARENTS

35094

- (a) Prior to finalization of the adoption, the agency shall give the prospective adoptive parents a written medical report in accordance with ~~§ 8608(a)~~ Family Code Section 224/70(b) 8817(c) and the information gathered pursuant to ~~Subchapter 4/ Article 1/~~ Section 35093, "Assessment of the Child."

(~~2~~1) (Reserved)

(~~3~~2) (Continued)

(~~4~~3) (Continued)

(A) (Continued)

(C) (Continued)

1. (Continued)

(i) (Reserved)

(D) (Continued)

(b) (Continued)

Authority Cited: Section 8621, Family Code; Sections 10553 and 10554, Welfare and Institutions Code; and Section 224/70(b) 8608(a), Family Code.

Reference: Section 224/70(b) 8817(c), Family Code.



Adopt new Article 2 and new Section 35094.1 to read:

Article 2 Placement for Independent Adoption

35094.1 ADOPTION SERVICE PROVIDER REGISTRATION AND DUTY OF CARE

35094.1

(a) Prior to acting as an adoption service provider in California, the potentially qualified individual shall register with the Adoptions Branch of the department at Sacramento by providing the following evidence that he or she meets the qualifications specified in Family Code Section 8502. The registration shall be acknowledged by the department.

(1) The individual shall provide, or cause to be provided, to the department at:

California Department of Social Services  
Adoptions Branch  
744 P Street, M.S. 19-67  
Sacramento, California 95814

(A) A copy of the individual's current license as a Licensed Clinical Social Worker.

(B) An original letter or letters mailed to the department by the adoption agency or agencies with whom the individual worked attesting to the individual's experience and giving specific dates of employment.

(2) Verification or clarification of the information provided by the individual shall be obtained by the department, if necessary, from the Board of Behavioral Sciences Examiners and/or the employer(s).

(3) No individual shall be registered unless he or she possesses the required license and experience. If an individual has been registered and the department subsequently determines that he or she in fact lacks the required license and experience, registration of the individual shall be terminated. DISAPPROVED 2ND SENTENCE ONLY ↑

(4) A complaint with the Board of Behavioral Science Examiners shall be filed by the department or delegated county adoption agency when the actions of an individual adoption service provider are not in compliance with the department's regulations.

(b) The adoption service provider shall comply with Family Code Section 8801.7, which provides that the adoption service provider owes a very high duty of care to the birth parent being advised.

~~HANDBOOK BEGINS HERE~~

(1) <sup>(Reserved)</sup> Family Code Section 8801.7(c) states:

"(c) The adoption service provider owes a very high duty of care to the birth parent being advised, regardless of who pays the provider's fees. The duty of care specifically does not include a duty to investigate information provided by the birth parents, prospective adoptive parents, or their attorneys or agents. No adoption service provider shall have a contractual relationship with prospective adoptive parents, an attorney or representative for prospective adoptive parents, or any individual or organization providing services of any type to prospective adoptive parents for which the adoptive parents are paying a fee, except as relates to the payment of the fees for the advising and counseling of the birth parents."

(c) Adoption service provider is defined in Family Code Section 8502 the content of which is located at Section 35000(a)(5).

HANDBOOK ENDS HERE

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 8502 and 8801.7, Family Code.

Adopt new Section 35094.2 to read:

35094.2 PRE-PLACEMENT ADVISEMENT

35094.2

- (a) The adoption service provider shall advise a birth parent, as required by Family Code Section 8801.5, when the birth parent is considering the placement of his or her child for independent adoption unless the prospective adoptive parent is a grandparent, aunt, uncle, sibling, legal guardian who has been the child's legal guardian for more than three years or is a person named in the will of a deceased parent as an intended adoptive parent where the child has no other parent.
- (1) (Reserved)
- (b) Prior to advising a birth parent who is considering the placement of his or her child for independent adoption, the adoption service provider shall obtain background information regarding the prospective adoptive parents.
- (1) This background information shall include at least the personal knowledge, as defined in Section 35000(p)(5), that the birth parent must have prior to placing a child for adoption.
- (c) When advising a birth parent who is considering the placement of his or her child for adoption, the adoption service provider shall inform the birth parent of:
- (1) His or her right to separate, independent legal counsel paid for by the prospective adoptive parents upon the request of the birth parent.
- (2) Alternatives to adoptive placement of the child including, but not limited to:
- (A) Services which would assist the birth parent in caring for the child including:
1. Financial resources such as child support and Aid to Families with Dependent Children (AFDC).
  2. Employment resources such as vocational training and Employment Development Department services.
  3. Educational resources such as continuation school and General Equivalency Diploma programs.
  4. Child care resources, including the availability of subsidized day care.
  5. Housing resources such as shared housing with relatives or nonrelatives and government subsidized housing.

6. Health service resources such as well baby clinics, Child Health and Disability Prevention Programs (CHDP), California Children's Services, and Medi-Cal.

(B) Services, such as voluntary foster care placement or temporary placement with extended family members, which would give the parent more time to determine the most appropriate plan for the child.

(3) Alternative forms of adoption, including a description of the full procedures and timeframes involved in each type, which at a minimum shall address the following:

(A) Standard agency (relinquishment) adoption

1. The birth parent transfers his or her rights and responsibilities for the child to an adoption agency by signing a relinquishment of the child to the agency.

(i) The birth parent's legal rights and responsibilities for the child end when the relinquishment is filed with the department.

(ii) The relinquishment is filed on a date agreed to by the birth parent and the agency.

a. (Reserved)

(iii) The birth parent may revoke the relinquishment before it is filed with the department.

(iv) The birth parent may not rescind the relinquishment after it is filed with the department unless the adoption agency agrees.

2. The prospective adoptive parents must be assessed and approved by the adoption agency before the child is placed for adoption with the family.

3. The adoption agency, not the birth parent, selects the adoptive parents, and the birth parent usually does not know the identity of the adoptive parents.

(B) Designated agency (relinquishment) adoption

1. These adoptions are the same as standard agency adoptions except that:

(i) The birth parent participates in the selection of the adoptive parents,

(ii) The birth parent knows the identity of the adopting parents, and

(iii) The birth parent also has a right to rescind his or her relinquishment and thus regain his or her parental rights and responsibilities if the child is not placed with the selected family or if the placement disrupts prior to completion of the adoption.

(C) Independent adoption by relatives

1. The birth parent agrees to the prospective adopting parents' future adoption of the child by signing a consent to the adoption.

(i) The birth parent continues to be legally responsible for the child until the adoption is completed.

a. (Reserved)

(ii) The consent to the adoption becomes irrevocable 90 days after it is signed unless the birth parent waives the right to revoke the consent before the 90 days expire.

(iii) The birth parent may revoke the consent and, if he or she has legal custody, reclaim the child at any time before the consent becomes irrevocable.

a. When the consent becomes irrevocable, custody of the child may be regained by the birth parent only if the potential adoptive parents agree to withdraw their petition for adoption or the court denies the petition for adoption.

(iv) The consent does not require the prospective adoptive parents to complete the adoption.

2. The prospective adoptive parents are assessed as to their suitability to adopt after the child has begun living with them and they have filed a petition to adopt with the court.

3. The birth parent selects the adoptive parents.

4. The child begins living with the prospective adoptive parents before parental rights have been terminated.

(D) Independent adoption by nonrelatives

1. Each placing birth parent agrees to the prospective adopting parents' future adoption of the child by signing a placement agreement, and any non-placing birth parents agree to the future adoption by signing a consent.

- (i) The birth parent continues to be legally responsible for the child until the adoption is completed.
  - a. (Reserved)
- (ii) A placement agreement becomes an irrevocable consent to the adoption 90 days after it is signed unless the birth parent shortens this period by waiving the right to revoke the consent before the 90 days expire.
- (iii) A consent becomes irrevocable 90 days after it is signed unless the birth parent shortens this period by waiving the right to revoke the consent before the 90 days expire.
  - a. When the placement agreement or consent becomes an irrevocable consent, custody of the child may be regained by the birth parent only if the potential adoptive parents agree to withdraw their petition for adoption or the court denies the petition for adoption.
- (iv) The birth parent may revoke the placement agreement or consent and, if he or she has legal custody, reclaim the child at any time before the placement agreement or consent becomes an irrevocable consent.
- (v) The placement agreement or consent does not require the prospective adoptive parents to complete the adoption.
- 2. The prospective adoptive parents are assessed as to their suitability to adopt after the child has begun living with them and they have filed a petition to adopt with the court.
- 3. The birth parent selects the adoptive parents.
- 4. The child usually begins living with the prospective adoptive parents when a parent with legal custody has signed an adoptive placement agreement.
- (4) The right to a minimum of three separate counseling sessions, as required by Family Code Section 8801.5.
  - (A) (Reserved)
- (5) Other rights and responsibilities of the birth parent as outlined on the AD 926 or, if the child is subject to the Indian Child Welfare Act, the AD 927.

- (A) (Reserved)
- (B) The adoption service provider shall review each item on the Statement of Understanding with the birth parent to be certain that the birth parent understands the meaning of each item.
- (C) The adoption service provider shall answer any questions the birth parent has about the meaning of the items.
- (6) If all possible birth parents are not placing the child for adoption, the necessity of legally terminating the parental rights or securing the consent of all other possible parents before the adoption can be completed.
  - (A) The adoption services provider shall emphasize the importance of and explain the possible repercussions of not accurately identifying other possible birth parents including:
    - 1. The fact that the mother or presumed father who was not informed of the adoptive placement may take custody of the child after the child has been placed for adoption and that this is very traumatic for the child and the prospective adoptive parents.
    - 2. The fact that if parents are not identified, it is not possible to obtain information about their medical history and other background information and the child and his or her adoptive parents will be deprived of crucial information which may be relevant to future decisions regarding the child's health and well-being.
  - (B) The adoption service provider shall make a diligent attempt to secure from the placing parent information necessary to allow accurate identification of the other parent.
    - 1. The AD 880 shall be used to collect this information from birth mothers.
- (7) The fact that the proposed independent adoption will be investigated by the department or delegated county adoption agency and that the birth parent will be interviewed during the investigation.
  - (A) The adoption service provider shall provide the birth parent with the name, address and telephone number of the department or delegated county adoption agency office that will investigate the proposed adoption.
- (d) The adoption service provider shall give the birth parent the following documents at the initial session:

- (1) Documents provided for the birth parent's review:
- (A) The relevant Statement of Understanding with the personal knowledge section completed.
  - (B) The relevant Independent Adoption Placement Agreement.
  - (C) The AD 908.
- (2) Documents which the birth mother shall be given with the request that she complete them, possibly with the assistance of family members, prior to signing the Independent Adoption Placement Agreement:
- (A) The AD 67.
  - (B) If the birth father has not been advised, the AD 67A with the request that the birth mother provide as much information as possible.
  - (C) The AD 880.
- (3) Documents which the birth father shall be given with the request that he complete them, possibly with the assistance of family members, prior to signing the Independent Adoption Placement Agreement:
- (A) The AD 67A.
  - (B) If the birth mother has not been advised, the AD 67 with the request that the birth father provide as much information as possible.

Authority Cited: Section 8621, Family Code; Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 7663, 8502, 8801.3, 8801.5, 8801.7, 8802, 8817, and 8818, Family Code.



Adopt Section 35094.3 to read:

35094.3 INDEPENDENT ADOPTION PLACEMENT AGREEMENT

35094.3

- (a) Prior to signing the AD 924 or the AD 925, the adoption service provider shall:
- (1) Obtain, document, and share with the prospective adoptive parents information from the birth parent(s) regarding the child's background, the birth parents' reasons for choosing adoption for the child, and the birth parents' attitude toward the proposed adoptive placement.
    - (A) Assist the birth parent in providing medical and family background information by helping him or her complete the AD 67 and the AD 67A forms.
    - (B) Assure that the adopting parents have received copies of the AD 67 and the AD 67A forms completed by the birth parent(s).
  - (2) Determine whether the child is an Indian child prior to witnessing the signing of a placement agreement if any documentation or oral report indicates that either birth parent may be of Indian ancestry.
    - (A) The adoption service provider shall ask the birth parent whether the birth parent or the child's other parent is of Indian ancestry.
    - (B) (Reserved)
    - (C) (Reserved)
  - (3) Ask the birth mother to identify the child's father or possible fathers.
    - (A) As part of this inquiry, the adoption service provider shall assist the birth mother in completing the AD 880.
  - (4) Determine that the birth parent has the ability to understand the nature, content, and effect of signing an adoptive placement agreement.
    - (A) If the adoption service provider's observation or knowledge of the parent's history or current condition indicates that the parent may not have the ability to understand the content, nature, and effect of signing the adoption placement agreement, the adoption service provider shall ask the potential adoptive parents to arrange for an evaluation by a licensed physician or a licensed clinical psychologist of the parent's ability to understand the nature, content, and effect of signing an adoptive placement agreement.
      - 1. This evaluation shall not be required if the inability is temporary resulting from factors such as stress, lack of sleep, or the use of alcohol or other mind-altering substances. However, the adoption service provider shall

not sign the adoption placement agreement until the birth parent is able to understand the content, nature, and effect of the agreement.

2. The need for an evaluation is indicated under, but not limited to, the following circumstances:

(i) The birth parent is receiving SSI/SSP based on mental illness or developmental disability.

(ii) The birth parent has received psychiatric treatment and/or medication for mental illness or disease within the past two years.

a. Counseling related to placement of the child for adoption, the resolution of marital problems or similar decision-making shall not be considered psychiatric treatment for mental illness or disease.

3. The adoption service provider shall obtain a written authorization from the parent for release of the evaluation by the physician or clinical psychologist to the adoption service provider and the department or delegated county adoption agency.

4. The adoption service provider shall sign the placement agreement:

(i) Only if the evaluation establishes that the birth parent has the ability to understand the nature, content, and effect of signing a consent to adoption;

(ii) No later than 30 days after the evaluation is completed; and

(iii) In the case of a birth parent for whom the court has appointed a conservator, only if the order of conservatorship specifically allows the birth parent to consent to the adoption of his or her child.

(5) Obtain written authorization from the birth parent for the following releases of information concerning the parent and the child:

(A) From the adoption service provider to the department or delegated county adoption agency.

(B) From the department or delegated county adoption agency to the prospective adoptive parents.

(C) From the child's physician(s) to the department or delegated county adoption agency if the child is not being placed at birth.

- (6) Obtain written authorization from the birth mother for the following releases of information concerning the mother and the child:
  - (A) From the birth mother's physician(s) to the department or delegated county adoption agency.
  - (B) From the hospital where the birth mother delivered the child, or intends to deliver the child, to the department or delegated county adoption agency.
- (7) Determine that the birth parent is voluntarily choosing to place the child with the prospective adoptive parents for the purpose of adoption pursuant to Family Code Section 8801.
  - (A) (Reserved)
  - (B) The adoption service provider shall sign the adoption placement agreement only after he or she determines that the birth parent has substantially correct knowledge of all of the elements of personal knowledge regarding the prospective adoptive parents.
- (8) Present a copy of the AD 908 to the birth parent and give him or her an opportunity to complete and sign the statement.
- (9) Obtain the birth parent's signature on the Statement of Understanding form after the birth parent has affirmed his or her understanding of the placement and consent process by reading and initialing each explanatory statement on the Statement of Understanding form in the presence of the adoption service provider.
  - (A) The Statement of Understanding shall be signed on the same day, but prior to the signing of the adoption placement agreement.
- (10) Sign the Statement of Understanding form certifying that the birth parent's signature has been properly witnessed.
- (11) Obtain written verification of the provision of the advisement from the advising adoption service provider, if the adoption service provider signing the adoption placement agreement is not the adoption service provider that provided the advisement.
- (b) After the conditions specified in Section 35094.2(a) have been met, the adoption service provider shall arrange for the signing of the adoption placement agreement as provided in Family Code Section 8801.3.
  - (1) (Reserved)
  - (2) If the child is an Indian child, the placement agreement must be signed in accordance with Section 35375.
- (c) After the Independent Adoption Placement Agreement has been signed by the birth parents, the adoptive parents, and the adoption service provider, the adoption service provider shall:

- (1) Give the birth parent copies of the following signed documents:
  - (A) The Independent Adoption Placement Agreement.
  - (B) The Statement of Understanding.
  - (C) The Adoptions Information Act Statement.
  - (D) If requested, any other documents which the birth parent has signed.
- (2) Give the potential adoptive parents a copy of the signed Independent Adoption Placement Agreement.
- (3) Offer to interview the birth parent as provided in Family Code Section 8801.7
  - (A) (Reserved)
- (4) If a birth parent who has placed a child decides to revoke consent, offer and, if requested, do the following to assist the birth parent in obtaining the return of the child:
  - (A) Assist the birth parent in completing the written statement revoking the placement agreement and delivering that statement to the department or delegated county adoption agency.
    1. A specific form shall not be required, but the AD 928 may be used for this purpose.
  - (B) Contact the prospective adoptive parents to inform them of the placing parent's decision and to arrange the time and place of the return of the child.
  - (C) Accompany the birth parent when the parent takes custody of the child.
- (5) Send the department or delegated county adoption agency:
  - (A) A completed AD 930.
  - (B) Original signed copies of all documents signed by the birth parent including, but not limited to:
    1. The AD 924 or the AD 925.
    2. The AD 926 or the AD 927.
    3. The AD 908.
    4. The AD 67.

5. The AD 67A.
  6. The AD 880.
  7. The AD 100.
- (C) The information specified in Section 35094.2(b).
- (D) Reports of any examinations of the birth parent's competency to sign an adoption placement agreement.
- (E) Any documents related to the determination of the child's status as an Indian child under the Indian Child Welfare Act.
- (F) A summary of contacts with the birth parent, including the information obtained pursuant to Section 35094.3(a)(1) and any other information which the adoption service provider believes will assist the department or delegated county adoption agency in its investigation of the proposed adoption.
- (G) Any request to revoke the adoption placement agreement.

Authority Cited: Section 8621, Family Code. Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 4992.3, Business and Professions Code; Sections 56.11, 1798.24, Civil Code; Sections 7663, 8801, 8801.3, 8801.5, 8801.7, 8813, 8814.5, 8815, 8817, and 8818, Family Code; 25 USC 1901 et seq.

Renumber existing Article 2 to Article 3 and amend Section 35095 to read:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS

Article 23 Prerequisites To Consent

35095 GENERAL PREREQUISITES TO CONSENT

35095

(a) The agency shall interview the birth parent as required by Family Code Section 8808.

(1) (Reserved)

(~~ab~~) Prior to accepting a consent to adoption or a waiver of right to revoke consent, the agency ~~representative~~ shall:

(1) Obtain information from the birth parents regarding the child's background, the birth parents' reasons for choosing adoption for the child, and the birth parents' attitude toward the adoption.  
(Continued)

(4) Verify the marriages and dissolutions of marriage of the birth mother as required by Section 35023(~~ab~~) (5).

(5) Interview the petitioners unless ~~the agency has received confirmation that:~~

~~(A) The consenting parent has been advised as provided in Section 35127.11 and~~

~~(B) The assessment described in Section 35127.12 has been performed and it has been determined that there is no serious question about the suitability of the petitioners.~~

(A) The birth parent has requested that he or she be interviewed within 10 working days as provided in Family Code Section 8814.5; and

(B) The agency's schedule precludes interviewing the petitioners prior to the interview with the birth parent.

1. (Reserved)

(6) Determine that the birth parent voluntarily chose to place the child with the petitioners for the purpose of adoption ~~based upon the definition of "place for adoption" and specific personal knowledge as defined in Civil Code Sections 220.20(a) and 220.20(b) pursuant to Family Code Section 8801.~~

- (A) The ~~Agency representative~~ shall document in the court report whether the birth parent voluntarily selected the petitioners and placed the child pursuant to Civil Family Code Section 224/20 8801 which is located at Section 35094.3(a)(7)(A).
- (B) If the agency ~~representative~~ determines that the birth parent has not demonstrated substantially correct knowledge of all ~~key~~ elements of personal knowledge regarding the petitioners, a consent to the adoption cannot be taken since an independent adoptive placement as defined in law has not occurred.
- (C) (Continued)
- (D) The agency shall immediately file a preliminary court report to the court if the adoptive placement is not made in accordance with Civil Code Sections 220/20/AY/ 220/20/AY/ 221/40 of 224/20 Family Code Sections 8609, 8801 or 8801.3.
1. (Reserved)
  2. (Reserved)
  3. (Reserved)

(7) through (8) (Continued)

(9) Obtain the birth parent's signature on the Statement of Understanding form after the parent has:

- (A) Affirmed ~~his/her~~ his or her understanding of the consent process by reading and initialing each explanatory statement on the Statement of Understanding form.

(10) (Continued)

(11) (Continued)

(c) The agency is not required to repeat any of the duties mandated by Section 35095(b)(1), (2), (3), (8), (9), (10), or (11) if the duties have been performed by an adoption service provider and the agency has received documentation of the outcome of the adoption service provider's work.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Sections 224/30/AY and 224/70/AY Civil 8608(a) and 8621, Family Code.

Reference: Sections 220/20/AY/ 220/20/AY/ 221/40/ 224/20/ 224/40/ 224/42/ 224/44/ 224/50/ 224/62/ and 224/70/AY Civil 8608, 8609, 8801, 8801.3, 8801.7, 8806, 8807, 8808, 8814, 8814.5 and 8817, Family Code.

Amend Section 35095.1 to read:

35095.1 STATEMENT OF UNDERSTANDING FOR THE PARENT  
WHOSE CHILD IS NOT SUBJECT TO THE ICWA

35095.1

- (a) Reserved
- (a) (Reserved)
- (b) The Statement of Understanding shall contain statements which summarize the following:
  - (1) For the parent who gave physical custody of the child to the adoptive parents but who did not place the child for independent adoption:
    - (A) The parent wants to ~~permanently~~ give his child permanently to the petitioners for adoption.
    - (B) The parent has chosen the petitioners to be adoptive parents based on the parent's personal knowledge ~~of the items specified in Civil Code Section 220.20(a)~~ pursuant to Family Code Section 8801.
      - 1. (Reserved)
    - (C) The parent has the right to seek legal counsel to assist in the Independent Adoption process, and the ~~agency can refer the parent to public legal assistance in the community~~ petitioners may be required to pay the cost, up to \$500, of such legal counsel, unless a higher fee is agreed to by the parties.
    - (D) and (E) (Continued)
    - (F) If the parent does not wish to consent to the adoption, the parent may sign a ~~refusal to give consent to adoption~~ AD 20 (7/84) or write a letter to the adoption agency, and the adoption agency will report to the court that the parent does not want the child adopted by the petitioners.
    - (G) (Continued)
    - (H) The consent will automatically become an irrevocable consent to adoption on the 91st day after it is signed or when the parent signs a waiver of the right to revoke consent, whichever occurs first.
    - (I) 1. If the parent changes his or her mind after signing the consent to adoption and wishes to ~~withdraw~~ revoke the consent to adoption, the parent must ~~write to the court in the county in which the adoption petition is filed, before the adoption is granted, to ask that his or her consent be withdrawn.~~ The court may appoint an attorney for the parent if the parent cannot afford an attorney. The parent



will not be permitted to withdraw the consent to adoption unless the parent proves to the court that there are good reasons for the parent's change of mind and that it would be better for the child to live with the parent rather than the petitioners/ sign and deliver to the department or delegated county adoption agency a written statement revoking the consent and requesting that the child be returned. Such action may not be taken after the 90th day after signing the consent or after signing a waiver of the right to revoke consent, whichever occurs first.

2. When the consent becomes irrevocable, custody of the child may be regained by the birth parent only if the prospective adoptive parents agree to withdraw their petition for adoption or the court denies the petition.

(I) through (L) (Continued)

- (M) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/ or her adoptive family.

(N) (Continued)

- (O) The agency cannot release any identifying information about the parent unless:

1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or
2. The adult adoptee and birth parent both sign written consents to arrange contact between these persons in accordance with ~~01/11~~ Family Code Section 229.50 9204, or

(i) (Reserved)

3. The adoptee who has reached the age of 21 has requested the identify of his/ or her birth parent and his/ or her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with ~~01/11~~ Family Code Section 229.40/41 9203, or
4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with ~~01/11~~ Family Code Section 229.40/41 9203, or

5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/ or her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with ~~01411~~ Family Code Section 2291401dY 9203.

(i) (Reserved)

(P) through (S) (Continued)

- (T) The Statement of Understanding for the parent who gave physical custody of the child not subject to the provisions of the ICWA but who did not place the child for adoption as provided by Sections 35094.2 and 35094.3 is the AD 887.

(2) For the parent who intends to place the child for independent adoption as provided by Sections 35094.2 and 35094.3:

- (A) The parent wants to give his or her child permanently to the prospective adoptive parents for adoption.

- (B) The parent has chosen the prospective adoptive parents to be adoptive parents based on the parent's personal knowledge pursuant to Family Code Section 8801.

1. (Reserved)

- (C) The parent has the right to seek legal counsel to assist in the Independent Adoption process, and the prospective adoptive parents may be required to pay the cost, up to \$500, of such legal counsel, unless a higher fee is agreed to by the parties.

- (D) The parent may talk about the plan to place the child for adoption with other professionals and with family and friends.

- (E) The parent knows there are other services to assist with finance, employment, education, housing, temporary child care and health matters if uncertain about consenting to the adoption.

1. The adoption service provider will make a referral to the appropriate resource.

- (F) The parent has a right to a minimum of three separate counseling sessions with an adoption service provider or a licensed psychotherapist which, at the birth parent's request, shall be paid for by the prospective adoptive parent.

- (G) If the parent does not wish to place the child for adoption, the parent should not sign the Independent Adoption Placement Agreement.

- (H)    The agreement will automatically become an irrevocable consent to adoption on the 91st day after it is signed or when the parent signs a waiver of the right to revoke consent, whichever occurs first.
1.    If the parent changes his or her mind after signing the adoption placement agreement and wishes to revoke the agreement, the parent must sign and deliver to the department or delegated county adoption agency a written statement revoking the agreement and requesting that the child be returned. Such action may not be taken after the 90th day after signing the agreement or after signing a waiver of the right to revoke consent, whichever occurs first.
2.    When the consent becomes irrevocable, custody of the child may be regained by the birth parent only if the prospective adoptive parents agree to withdraw their petition for adoption or the court denies the petition.
- (I)    The parent remains legally responsible for the child until the adoption is granted by the court. The agency will notify the parent if the child is not adopted by the prospective adoptive parents to determine the parent's further plans for the child. The parent must keep the agency informed of his or her address.
- (J)    The parent has received enough information about the prospective adoptive parents and wishes to proceed with signing the adoption placement agreement.
- (K)    The statements required by subsections 35095.1(b)(1)(K) through (R).
- (L)    The parent has considered the reasons for placing or not placing the child for adoption and has decided that to place the child for adoption with the prospective adoptive parents is in the best interest of the child.
- (M)    The Statement of Understanding for the parent who placed the child for adoption as provided by Sections 35094.2 and 35094.3 is the AD 926.
- (23)   For the parent who did not give physical custody of the child to the adopting parents:
- (A) through (E)    (Continued)
- (24)   For the alleged natural father:
- (A) through (H)    (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and  
Sections 8621 and 9202, Family Code.

Reference: Sections 1971, 2201201eY, 2201201wY, 2201201oY, 2211101, 2211121, 2211201,  
2211741, 2211761, 2241101, 2241361, 2241441, 2241611, 2241621, 2241641, 2241701,  
2241731, 2281101, 2291201, 2291301, 2291401, 2291501, 2291601, 1798.24(r), and  
1798.24(s), 70011, 70021, 70031, 70041, 70061, 70171 and 7017121 Civil Code;  
Section 6211 Evidence Code; and Sections 6408 and 6408.5, Probate  
Code; and Sections 3010, 7540, 7541, 7601, 7602, 7610, 7611, 7612,  
7630, 7631, 7632, 7633, 7634, 7660, 7661, 7662, 7663, 7664, 7665,  
8600, 8601, 8604, 8605, 8606, 8608, 8616, 8617, 8618, 8800, 8801,  
8801.3, 8801.5, 8804, 8808, 8813, 8814, 8814.5, 8815, 8817, 8818, 9100,  
9200, 9201, 9202, 9203, 9204, 9205, and 9206 Family Code.

Amend Section 35095.2 to read:

35095.2 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD  
IS SUBJECT TO THE ICWA

35095.2

(a) (Reserved)

(b) The Statement of Understanding shall contain statements which summarize the following:

(1) For the parent who gave physical custody of the Indian child to the adoptive parents but who did not place the child for independent adoption:

(A) The parent wants to ~~permanently~~ give his child permanently to the petitioners for adoption.

(B) The parent has chosen the petitioners to be adoptive parents based on the parent's personal knowledge ~~of the items specified in Civil Code Section 220/20/01~~ pursuant to Family Code Section 8801.

1. (Reserved)

(C) through (E) (Continued)

(F) The parent has the right to seek legal counsel to assist in the Independent Adoption process and, ~~the agency can refer the parent to public legal assistance in the community~~ petitioners may be required to pay the cost, up to \$500, of such legal counsel, unless a higher fee is agreed to by the parties.

(G) and (H) (Continued)

(I) If the parent does not wish to consent to the adoption, the parent may sign a ~~refusal to give consent to adoption~~ AD 20 17/8411 or write a letter to the adoption agency, and the adoption agency will report to the court that the parent does not want the child adopted by the petitioners.

(J) through (N) (Continued)

(O) The parent will be notified if any other parent asks to take back ~~his/her~~ his or her consent and of any court proceedings because ~~he/she~~ he or she is asking to take back the consent.

1. The parent is responsible for keeping ~~his/her~~ his or her name and address current with the agency so that notice can be given.

concern to  
F address for  
written agency  
request  
12/29/94

(P) and (Q) (Continued)

(R) The adoption agency will take the necessary steps to obtain a Certificate of Degree of Indian Blood for the child and may enroll the child in ~~his/her~~ his or her tribe or register ~~his/her~~ his or her for any Bureau of Indian Affairs benefits that ~~he/she~~ he or she may be able to get.

(S) (Continued)

(T) The agency shall notify the parent if the adoption petition is withdrawn, dismissed, or denied or if the adoption is set aside.

1. The parent is responsible for keeping ~~his/her~~ his or her name and address current with the agency so that notice can be given.

(U) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from ~~his/her~~ his or her adoptive family.

1. The adoption of an Indian child terminates inheritance from the biological parents or blood relatives to the child; however, any rights or benefits the child has or may be eligible for as a result of ~~his/her~~ his or her status as an Indian are unaffected. See Subchapter 8.

(V) (Continued)

(W) The agency cannot release any identifying information about the parent unless:

1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or

2. The adult adoptee and birth parent both sign written consents to arrange contact between these persons in accordance with ~~Chapter~~ Family Code Section ~~229/50~~ 9204, or

(i) (Reserved)

3. The adoptee who has reached the age of 21 has requested the identity of ~~his/her~~ his or her birth parent and ~~his/her~~ his or her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with ~~Chapter~~ Family Code Section ~~229/40/41~~ 9203, or

4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if

the adult adoptee has indicated consent to the disclosure in writing in accordance with ~~California~~ Family Code Section ~~229/40/4Y~~ 9203, or

5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and ~~his/her~~ his or her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with ~~California~~ Family Code Section ~~229/40/4Y~~ 9203.

(i) (Reserved)

(X) Information regarding the adoption may be released as follows:

1. The adopted child who has reached age 18 may request and receive from the court which granted the adoption information regarding the tribal affiliation of the birth parent and any other information necessary to protect any rights the adopted child may have with regard to ~~his/her~~ his or her tribal relationship.

2. through 4. (Continued)

(Y) through (DD) (Continued)

(2) For the parent who intends to place the Indian child for independent adoption as provided by Sections 35094.1 and 35094.2:

- (A) The parent wants to give his child permanently to the prospective adoptive parents for adoption.
- (B) The parent has chosen the prospective adoptive parents to be adoptive parents based on the parent's personal knowledge pursuant to Family Code Section 8801.
- (C) That because the child has been determined to be an Indian child the requirements of the Indian Child Welfare Act (ICWA) will apply to the signing of the adoption placement agreement and the adoption of the child.
- (D) According to the ICWA, the best place for the child to live if he cannot be with the parent would be with a member of his extended family. The next choice would be other members of the child's tribe. The third choice would be with another Indian family. If the parent does not wish to follow any of these placement choices, he or she must tell the court. The court will make the final decision as to whether this placement preference order will be changed.
- (E) The adoption placement agreement shall be signed before a judge of the Superior Court in California, or before a court of competent jurisdiction if signed outside the state.

- (F) The parent has the right to seek legal counsel to assist in the Independent Adoption process, and the prospective adoptive parents may be required to pay the cost, up to \$500, of such legal counsel, unless a higher fee is agreed to by the parties.
- (G) The parent may talk about the plan to place the child for adoption with other professionals and with family and friends.
- (H) The parent knows there are other services to assist with finance, employment, education, housing, temporary child care, and health matters if uncertain about consenting to the adoption.

  - 1. The adoption service provider will make a referral to the appropriate resource.
- (I) The parent has a right to a minimum of three separate counseling sessions with an adoption service provider or a licensed psychotherapist which, at the parent's request, will be paid for by the prospective adoptive parent.
- (J) If the parent does not wish to place the child for adoption, the parent should not sign the Independent Adoption Placement Agreement.
- (K) If the parent should change his or her mind about the adoption after signing the adoption placement agreement, the parent may withdraw the placement agreement before the adoption is granted by the court and the child will be returned to the parent.
- (L) The parent remains legally responsible for the child until the adoption is granted by the court. The agency will notify the parent if the child is not adopted by the petitioners to determine the parent's further plans for the child. The parent must keep the agency informed of his or her address.
- (M) The parent has received enough information about the prospective adoptive parents and wishes to proceed with signing the adoption placement agreement.
- (N) The statements required by subsections 35095.1(b)(1)(N) through (BB).
- (O) The parent has considered the reasons for placing or not placing the child for adoption and has decided that to place the child for adoption with the petitioners is in the best interest of the child.
- (P) The Statement of Understanding for the parent who placed the child subject to the provisions of the ICWA for adoption as provided by Sections 35094.2 and 35094.3 is the AD 927.



(23) For the parent who did not give physical custody of the child to the adopting parents:

(A) through (E) (Continued)

(24) For the alleged natural father:

(A) through (I) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Sections 8621 and 9202, Family Code.

Reference: Sections 197/ 220/201eY/ 220/201nY/ 220/201oY/ 221/10/ 221/12/ 221/20/ 221/74/ 221/76/ 221/80/ 224/10/ 224/36/ 224/44/ 224/61/ 224/62/ 224/64/ 224/70/ 224/73/ 228/10/ 229/20/ 229/30/ 229/40/ 229/50/ 229/60/ 1798.24(r), and 1798.24(s), 7001/ 7002/ 7003/ 7004/ 7017/ and 7017/2/ Civil Code; Section 621/ Evidence Code; Sections 6408 and 6408.5, Probate Code; and 25 USC Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917; Sections 3010, 7540, 7541, 7601, 7602, 7610, 7611, 7612, 7660, 7661, 7662, 7663, 7664, 7665, 8600, 8601, 8604, 8605, 8606, 8608, 8616, 8617, 8618, 8619, 8800, 8801, 8801.3, 8801.5, 8804, 8808, 8813, 8814, 8815, 8817, 8818, 9100, 9200, 9201, 9202, 9203, 9204, 9205, and 9206, Family Code.

Amend Section 35097 to read:

35097        DETERMINATION OF PARENT'S ABILITY TO UNDERSTAND CONTENT,        35097  
             NATURE AND EFFECT OF CONSENT

- (a) The agency ~~representative~~ shall determine that the consenting parent has the ability to understand the nature, content, and effect of signing a consent to adoption.
- (1) If the agency ~~representative~~ determines that the parent may not have the ability to understand the content, nature, and effect of signing a consent to adoption, the agency ~~representative~~ shall refer the parent to a licensed physician or to a licensed clinical psychologist for an evaluation of the parent's ability to so understand.

(A)    (Continued)

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:        Sections ~~224/40 and 224/42/ Civil~~ 8806 and 8807, Family Code.

Amend Section 35099 to read:

35099      ACCEPTING MOTHER'S CONSENT TO ADOPTION  
            OF NEWBORN    (Continued)

35099

Authority Cited:    Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:           Sections ~~224/40 and 224/62/ Civil~~ 8806 and 8814, Family Code;  
                         and 25 U/S/C/ 1901 et seq.

Amend Section 35101 to read:

35101        ACCEPTING CONSENT FROM PARENT IN PSYCHIATRIC TREATMENT        35101

(a) The agency shall accept a consent to adoption from a parent who is receiving inpatient or outpatient psychiatric treatment for mental illness only after the parent's ability to understand the nature, content, and effect of signing a consent to adoption has been established by a written evaluation signed by the attending physician or licensed clinical psychologist.

(1) Counseling related to placement of the child for adoption, the resolution of marital problems, or similar decision making shall not be considered psychiatric treatment.

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:        Sections ~~224/40 and 224/62/ Civil~~ 8806 and 8814, Family Code.

Amend Section 35103 to read:

35103	ACCEPTING CONSENT FROM PARENT UNDER CONSERVATORSHIP (Continued)	35103
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Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections ~~224.40 and 224.62, Civil~~ 8806 and 8814, Family Code.

Amend Section 35105 to read:

35105      ACCEPTING CONSENT FROM PARENT IN OR ON  
            LEAVE FROM A PSYCHIATRIC FACILITY

35105

(a) (Continued)

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:      Sections ~~224.40 and 224.62, Civil~~ 8806 and 8814, Family Code.

Amend Section 35107 to read:

35107        PROCEDURE WHEN AGENCY IS UNABLE TO ACCEPT CONSENT

35107

(a)    (Continued)

(1)    (Reserved)

Authority Cited:    Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:        Sections ~~224.40 and 224.62/ Civil~~ 8806 and 8814, Family Code.

Amend Section 35109 to read:

35109 .PROCEDURES FOR ACCEPTING CONSENTS SIGNED IN CALIFORNIA

35109

(a) Reserved

~~(a) (Reserved)~~

(b) (Continued)

(1) (Continued)

(2) The signature of the agency ~~representative~~ on a properly completed and signed consent to adoption shall verify that the agency has determined that the consenting parent has the capacity to understand the nature, content, and effect of a consent to adoption.

(3) When the child is not subject to the Indian Child Welfare Act, the following consent documents shall be used for taking the consent of:

(A) The parent placing the child pursuant to Section 35094.2: AD 924.

(B) A mother or presumed father not denying paternity: AD 1A.

(C) A presumed father denying paternity: AD 165.

(D) An alleged father not denying paternity: AD 594.

(E) An alleged father denying paternity: AD 588.

(F) An alleged father waiving right to further notice: AD 590.

(4) When the child is subject to the Indian Child Welfare Act, the following consent documents shall be used for taking the consent of:

(A) The parent placing the child pursuant to Section 35094.2: AD 925.

(B) A mother or presumed father not denying paternity: AD 859.

(C) A presumed father denying paternity: AD 860.

(D) An alleged father not denying paternity: AD 861.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Section 8621, Family Code.

Reference: Sections 197/ 221/20/ 224/40/ and 224/62/ Civil 3010, 8604, 8605, 8606, 8806 and 8814, Family Code; and 25 U/S/C/ 1901 et seq.



Amend Section 35111 to read:

35111 PROCEDURES FOR ACCEPTING OUT-OF-STATE  
CONSENTS NOT INITIATED BY THE AGENCY

35111

(a) (Reserved)

(b) (Continued)

- (1) The consent is notarized in accordance with ~~01111~~ Family Code Section ~~224/02/cy~~ 8814(c).

(A) (Reserved)

- (2) The consent is properly completed on a form which contains the same content as the form prescribed by the Department in accordance with ~~01111~~ Family Code Section ~~224/02~~ 8814(a).

(A) (Reserved)

- (3) When the child is not subject to the Indian Child Welfare Act, the following consent documents shall be used for taking the out-of-state consent of:

(A) A mother or presumed father not denying paternity: AD 1C.

(B) A mother or presumed father not denying paternity and in the armed forces: AD 1F.

(C) A presumed father denying paternity: AD 166.

(D) An alleged father not denying paternity in the armed forces: AD 842.

(E) An alleged father not denying paternity: AD 594.

(F) An alleged father denying paternity: AD 588.

(G) An alleged father waiving right to further notice: AD 590.

- (4) When the child is subject to the Indian Child Welfare Act, the following consent documents shall be used for taking the out-of-state consent of:

(A) A mother or presumed father not denying paternity: AD 859.

(B) A presumed father denying paternity: AD 860.

(C) An alleged father not denying paternity: AD 861.

(75) (Continued)

(A) Affirmed his/ or her understanding of the consent process by reading and initialing each explanatory statement on the Statement of Understanding form.

(~~4~~6) (Continued)

(~~5~~7) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and  
Section 8621, Family Code.

Reference: Section ~~224/62/ Civil~~ 8814, Family Code; and U/S/C/ 1901 et  
seq.

Amend Section 35113 to read:

35113 PROCEDURES FOR ACCEPTING OUT-OF-STATE  
CONSENTS WHICH ARE INITIATED BY THE AGENCY

35113

(a) (Reserved)

(b) (Continued)

(1) In the event that there is no authorized agency able and willing to provide these services in a timely manner in the other state, the agency shall send the consent directly to the consenting parent.

(2) The agency shall ensure that requests for out-of-state agency services from states which are members of the Interstate Compact on the Placement of Children (ICPC) comply with ICPC regulations ~~as contained in the Title 22/ California Code of Regulations/ Section 35391~~ commencing with Section 35401.

(A) (Reserved)

(B) (Reserved)

(C) (Reserved)

(D) (Reserved)

(E) (Reserved)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and  
Section 8621, Family Code.

Reference: Section 10553(e), Welfare and Institutions Code; Sections 224.40  
and 224.62, Civil 8806 and 8814, Family Code; and 25 U/S/C/  
1901 et seq.

Amend Section 35115 to read:

35115 COPY OF SIGNED CONSENT TO PARENT AND/OR  
ATTORNEY OF RECORD

35115

(a) The agency ~~representative~~ shall give the consenting parent a copy of the completed and signed consent to adoption.

(1) (Continued)

(A) The copy of the signed consent shall be sent to the petitioners if they are not represented by legal counsel.

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10553(e), Welfare and Institutions Code; and Sections ~~224140 and 224162/ Civil~~ 8806 and 8814, Family Code.

Amend Section 35117 to read:

35117        INFORMATION TO THE CONSENTING PARENT  
             REGARDING THE STATUS OF THE CHILD'S ADOPTION

35117

- (a) At the time of signing the consent to adoption, the agency shall advise the consenting parent, verbally and in writing, of the provisions of ~~Civil~~ Family Code Section ~~224/81~~ 8813.

(1)    (Reserved)

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference:        Section ~~224/81/ Civil~~ 8813, Family Code.

Repeal Section 35119 to read:

35119        PRESENTATION OF REQUIRED STATEMENT TO  
              CONSENTING PARENT

35119

*1a) At the time of signing the consent to adoption, the agency shall present a statement to the consenting parent as required by Civil Code Section 224.73 and obtain a response from and the signature of the parent.*

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224.73, Civil Code.

Amend Section 35121 to read:

35121      ADDITIONAL REQUIREMENTS FOR ACCEPTING CONSENT

35121

(a) (Continued)

(1) and (2) (Continued)

(3) Provide the birth parents with a copy of the Adoptions Information Act Statement pursuant to Family Code Section 8818.

(A) (Reserved)

(B) (Reserved)

(B) 1. (Reserved)

(4) (Continued)

(A) If the agency is unable to locate the birth parent, the agency shall accept the commitment of the child under ~~§ 8818~~ Family Code Section 8805.

(B) 1. (Reserved)

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 8805, 8813, and 8818, Family Code.

Adopt a new Section 35122 to read:

35122      REVOCATION OF CONSENT AND WAIVER OF RIGHT TO REVOKE CONSENT      35122

- (a) Revocation of a consent to adoption, including an adoption placement agreement, and waiver of the right to revoke consent are governed by Family Code Sections 8801.7, 8814.5, and 8815.
- (1) (Reserved)
- (2) (Reserved)
- (3) (Reserved)
- (b) The following additional procedures shall be followed if the birth parent wishes to revoke consent:
- (1) The written statement to revoke consent may be made on the AD 928 form or by any other written statement.
- (2) If requested, the agency shall assist the birth mother or presumed father in obtaining the return of the child if such assistance is not being given by an adoption service provider.
- (3) The agency shall inform the alleged natural father who revokes his consent that he must take court action to establish the father and child relationship before seeking return of the child and that he has the right to seek legal counsel.
- (c) The following additional procedures shall be followed if the birth parent wishes to waive his or her right to revoke consent:
- (1) The interview(s) with the birth parent shall include the material required by Section 35095.
- (2) The waiver of the right to revoke consent shall be made on the AD 929.
- (3) A birth parent who did not place the child for adoption as described in Section 35094.2 and who signs a consent to adoption may sign a waiver of right to revoke consent at the same time he or she signs the consent to adoption.
- (4) A parent of an Indian child may not waive his or her right to revoke consent.

Authority Cited:    Section 8621, Family Code. Sections 10553 and 10554, Welfare and Institutions Code.

Reference:        Sections 7630, 8801.7, 8808, 8814, 8814.5, 8815, Family Code; 25 USC 1913.



Renumber Article 4 to Article 5 and amend Section 35123 to read:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS

Article ~~4~~ 5 Finalization of Adoption

35123      CONTENT OF COURT REPORT AND REQUIREMENT FOR FILING

35123

(a) (Continued)

(1) (Continued)

(2) (Continued)

(A) through (C) (Continued)

(D) (Reserved)

(3) The agency ~~representative~~ shall immediately file a ~~preliminary~~ court report when there is a serious question whether the placement of the child for purposes of adoption was made in accordance with provisions of ~~Civil~~ Family Code Section ~~224/20~~ 8801.3.

(A) (Reserved)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code.

Reference: Sections ~~224/20/ 224/42/ and 224/49/ Civil~~ 8801.3, 8807, and 8811, Family Code.

Renumber existing Article 5 to 6 and amend Section 35125 to read:

Article § 6 Procedures in Denials and Commitments

35125      PLANNING FOR THE CHILD WHEN CONSENT IS WITHDRAWN,      35125  
THE PETITION IS WITHDRAWN OR DISMISSED, OR THE AGENCY  
RECOMMENDS REMOVAL OF THE CHILD

(a) (Reserved)

(b) The agency shall be responsible for reporting to the court and recommending a suitable plan for the care and custody of the child in accordance with ~~Civil~~ Family Code Section ~~224/64~~ 8815 when:

(1) Prior to the entry of a final decree of adoption the birth parent indicates orally or in writing that he/ or she wishes to withdraw his/ or her consent.

(A) (Reserved)

(2) The petitioners' desire to withdraw or to secure dismissal of the adoption petition in accordance with ~~Civil~~ Family Code Section ~~224/36~~ 8804.

(A) (Reserved)

(3) (Continued)

(A) (Reserved)

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 224/36/ 224/37 and 224/64/ Civil 8804, 8805, and 8815, Family Code; and 25 U/S/C/ 1901 et seq.

Amend Section 35126 to read:

35126 DENIAL OR DISMISSAL OF ADOPTION PETITION

35126

(a) (Reserved)

(b) (Continued)

(1) and (2) (Continued)

(3)(A) through (D) (Continued)

(E) (Reserved)

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections ~~224/36/ 224/37/ and 224/64/ Civil~~ 8804, 8805, 8815, and 8918, Family Code; Section 1500, Health and Safety Code; Section 11166, Penal Code; and 25 U/S/C/ 1901 et seq.

35127.1     ADVICE TO BIRTH PARENTS-INDEPENDENT  
              ADOPTION PREPLACEMENT PROGRAM

35127.1

- 1d) The agency shall meet with the birth parent wishing to participate in the Independent Adoption Preplacement Program prior to the placement of the child for adoption and give advice, collect information, and offer counseling as required by Civil Code Section 224.30(b).
- 1b) A birth mother of a newborn shall not be advised while she is hospitalized.
- 1c) As part of the balanced presentation the agency shall provide the birth parent with a full explanation of each of the statements on the appropriate Independent Adoption Statement of Understanding form as provided by Sections 35095, 35095.1 and 35095.2 and shall determine that the birth parent understands the meaning of each statement.
- 11) The Independent Adoptions Statements of Understanding are:
- AD 887           For parent who gave physical custody of the child to adoptive parents 1/3/90
- AD 887A          For legal parent who did not give physical custody of the child to the adoptive parents 1/3/90
- AD 887B          For alleged natural father 1/3/90
- AD 900           For the parent who gave physical custody of the Indian child to the adoptive parents 1/3/90
- AD 900A          For legal parent who did not give physical custody of the child to the adoptive parents 1/3/90
- AD 900B          For alleged natural father of Indian child 1/3/90
- 1d) Advice regarding alternatives to adoption shall include complete information regarding public and private services which could help the parent keep the child and temporary foster care services to give the parent time to make a decision regarding keeping or placing the child.
- 1e) The agency shall collect background information about the birth parent and child, if born, as required by Section 35023.
- 1f) The agency shall inquire of the birth mother about the identity of the birth father as required by Civil Code Section 7017(c).

10) The agency shall document the provision of the advice and/ or if desired by the birth parent/ counseling on the "Confirmation of Advice" (AP 913 11/89) form. At the request of the person advised, the agency shall provide this completed form, a copy of the summary of the family assessment given to the person advised, the background information about the parent and documentation of the inquiry about the identity of the birth father to the Department of County Welfare Department investigating a proposed adoption.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 224.50(h), Civil Code.

Reference: Sections 224.50 and 7017, Civil Code.

35127.2 ASSESSMENT OF POTENTIAL ADOPTIVE PARENTS -  
INDEPENDENT ADOPTION PREPLACEMENT PROGRAM

35127.2

- (a) The agency shall assess potential adoptive parents wishing to participate in the independent adoption preplacement program as required by Civil Code section 224.50(c).
- (b) Assessment interviews shall be conducted as described in section 35087(a)(1) through (4) except that the time limit in 35087(a)(1) does not apply.
- (c) The agency shall discuss the information described in section 35088 with the prospective adoptive parents.
- (d) The agency shall obtain the documentation to facilitate assessment described in section 35087.
- (1) A licensed private adoption agency shall obtain an FBI criminal record clearance as described in section 35193(a)(1)(B)(i) for prospective adoptive parents if required by section 35087(a)(1)(B)(i).
- (e) The agency shall obtain identifying information and evaluate the prospective adoptive parents as described in section 35089.
- (f) The agency shall make a complete written report of the assessment of the prospective adoptive family. If the family's request the agency shall provide a copy of the complete report, including copies of all reports received by the agency regarding the family, to the department of community welfare department investigating a proposed adoption by the prospective adoptive parents.
- (g) The agency shall meet the requirements of Civil Code section 224.50(c) regarding assessment in which there is a serious question about the suitability of the family.
- (3) The department shall provide a copy of the report regarding the complete or incomplete assessment in which there is a serious question about the suitability of the family to the district office of community welfare department investigating a subsequent petition filed by the prospective adoptive family.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 224.50(h), Civil Code.

Reference: Section 224.50, Civil Code.

ARTICLE 1: DEFINITIONS AND CONDITIONS

35400 DEFINITIONS

35400

(a) (1) "Appropriate Public Authority" means the state's Interstate Compact Administrator.

(b) Reserved

(c) (1) "California Agency" means a CPSSS Adoptions District Office or a licensed public or private adoption agency.

(2) "CPSSS" means the California Department of Social Services.

(d) Reserved

(e) Reserved

(f) Reserved

(g) Reserved

(h) Reserved

(i) (1) "ICPC" means Interstate Compact on the Placement of Children.

(2) "ICPC 100A Rev. 10/91" means the CPS form "Interstate Compact Placement Request."

(3) "ICPC 100B Rev. 10/91" means the CPS form "Interstate Compact Report on Child's Placement Status."

(j) Reserved

(k) Reserved

(l) Reserved

(m) Reserved

(n) Reserved

(o) Reserved

(p) (1) "Party State" means a state which is a member of the Interstate Compact on the Placement of Children.

(2) "Placement" means the arrangement for the care of a child in a family that has been studied and approved for adoption or has had a preplacement interview completed by a licensed adoption agency.

13Y "Prospective Adoptive Parent" is defined at Civil Code Section 2201201pY

14Y ReservedY

15Y 11Y "Receiving Agency in the Independent Adoptions Program" means the person(s) who is designated to receive a child from another party state with the intention of filing a petition to adopt that child.

12Y "Receiving Agency in the Relinquishment Adoptions Program" means a licensed adoption agency or SVSS Adoptions District Office that is designated to receive any child from another party state for the purpose of adoption.

15Y 11Y "Sending Agency in the Independent Adoptions Program" means the birth parent(s) who sends, brings, or causes to be sent or brought any child to another party state for the purpose of adoption.

12Y "Sending Agency in the Relinquishment Adoptions Program" means a licensed adoption agency or SVSS Adoptions District Office that sends, brings, or causes to be sent or brought any child to another party state for the purpose of adoption.

13Y "Sending State in the Independent Adoptions Program" means the state of residence of the birth parent placing a child for adoption in California. The child being placed is deemed to have been brought into California from the sending state regardless of the child's place of birth, including California.

15Y ReservedY

16Y ReservedY

17Y ReservedY

18Y ReservedY

19Y ReservedY

20Y ReservedY

21Y ReservedY

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 16100, Welfare and Institutions Code; Section 1502, Health and Safety Code; and Section 7900, Family Code.



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (if any)

RDB# 1294-44

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

APPROVED

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

DEC 30 1994

Office of Administrative Law

NOTICE

REGULATIONS

For use by Secretary of State only

FILED

In the office of the Secretary of State  
of the State of California

DEC 30 1994

At 3:52 O'clock P.M.  
TONY MILLER, Acting Secretary of State  
By Colvin L. Cornick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Independent Adoption Reform Regulations		TITLE(S) Title 22&MPP	FIRST SECTION AFFECTED 35094.1	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) Title 22 and MPP	ADOPT
SECTIONS AFFECTED	AMEND Section 35094.1(a)(3)
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)  
☐ Resubmittal  
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)  
☒ Emergency (Gov. Code, § 11346.1(b))  
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.  
☐ Print Only  
☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State  
☐ Effective on filing with Secretary of State  
☒ Effective other (Specify) January 1, 1995

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)  
☐ Fair Political Practices Commission  
☐ State Fire Marshal  
☐ Other (Specify)

## 6. CONTACT PERSON

Frank R. Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

DATE

12/28/94

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

## FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

## DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. The Department filed Independent Adoption Reform Regulations (RDB#0694-19) with OAL on November 14, 1994. These regulations required that "No individual shall be registered (as an adoption service provider) unless he or she possesses the required license and experience. If an individual has been registered and the Department subsequently determines that he or she in fact lacks the required license and experience, registration of the individual shall be terminated." This last, underlined, sentence was disapproved by the Office of Administrative Law (OAL) pending additional language which would require notification to the adoption service provider and allow additional information which may verify that the license and/or experience requirements are met.
2. These proposed emergency regulations would specify the notification procedures to be used prior to terminating the registration of an adoption service provider.
3. The Independent Adoption Reform Regulations are required to become effective January 1, 1995. However, the additional language which would revise the termination of registration procedures cannot be adopted using the regular adoption process without a 15-day public comment period, which would preclude a January 1, 1995 effective date. Therefore, it is necessary that this regulation be adopted as an emergency in order to achieve the required January 1, 1995 effective date and also provide some protective procedures for adoption service providers who may face termination of registration.

## INFORMATIVE DIGEST

These proposed emergency regulations implement, interpret, and make specific Section 8502(b)(2) of the Family Code.

The Department filed Independent Adoption Reform regulations with OAL on November 14, 1994. Part of Section 35094.1(a)(3) was disapproved by OAL pending additional language which would require notification to the adoption service provider prior to terminating registration and allow additional information which may verify that the license and experience requirements had been met.

These proposed emergency regulations would specify the notification procedures to be used prior to terminating the registration of an adoption service provider.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: The department has determined that these regulations will result in no cost to state agencies.
2. Costs to Local Agencies or School Districts: The department has determined that these regulations will result in no cost to local agencies or school districts.
3. Nondiscretionary Costs or Savings to Local Agencies: There are no nondiscretionary costs or savings to local agencies.
4. Federal Funding to State Agencies: The department has determined that these regulations will result in no impact on federal funding to state agencies.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies or school districts. Any local agency providing adoption services provider services would first obtain a license to do so from the Department's Community Care Licensing Program. All licensed adoption agencies must comply with California adoption regulations in order to obtain and maintain a license. However, there are no state mandated local costs in these regulations that require reimbursement under Government Code Section 17500 et seq. because there is no estimated increase in local costs associated with these regulations.

#### AUTHORITY AND REFERENCE CITATIONS

These regulations are proposed for adoption pursuant to the authority granted by Section 8621, Family; and Sections 10553 and 10554, Welfare and Institutions Code. The cited references are Sections 8502 and 8801.7, Family Code.

Amend Section 35094.1 to read:

35094.1 ADOPTION SERVICE PROVIDER REGISTRATION AND DUTY OF CARE

35094.1

(a) (Continued)

(1) (Continued)

(2) (Continued)

(3) No individual shall be registered unless he or she possesses the required license and experience.

(A) If an individual has been registered and the department subsequently determines that he or she in fact lacks the required license and/or experience, registration of the individual shall be terminated.

1. Prior to terminating the registration of an individual adoption service provider, the department shall mail the adoption service provider a written notice of termination and the reason(s) for the termination.

(B) The department shall not terminate the registration if, within fifteen working days after the department mails the notice, the adoption service provider mails a written response providing additional information verifying that the license and/or experience meets the requirements in Section 35094.1(a).

(C) If the additional information provided by the adoption service provider does not meet the license and/or experience requirements in Section 35094.1(a), the department shall terminate the registration.

(b) (Continued)

(1) (Reserved)

(c) (Reserved)

Authority Cited: Section 8621, Family Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 8502 and 8801.7, Family Code.